



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The landlords attended the hearing via conference call and provided testimony. The tenants attended the hearing via conference call and provided testimony. Both parties confirmed the landlords served the tenants with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail. Both parties confirmed the tenants did not submit any documentary evidence. Neither party raised any service issues. I accept the undisputed evidence of both parties and find that both parties have been sufficiently served as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Are the landlords entitled to an order of possession for unpaid rent?

Are the landlords entitled to a monetary order for unpaid rent and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlords provided undisputed testimony that there is no written tenancy agreement and that an oral agreement was made for this tenancy. The landlords stated that the monthly rent is \$1,800.00. The tenants provided undisputed testimony that monthly rent is payable on the 7th and the 22nd day of each month of \$900.00 for a total of \$1,800.00. The landlords confirmed that the monthly rent is payable twice each month, but on the 7th and the 17th day of each month at \$900.00 for each payment.

The landlords seek an order of possession and a clarified monetary order for unpaid rent of \$10,800.00 and recovery of the \$100.00 filing fee.

Both parties confirmed the landlords served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent dated July 31, 2019. The 10 Day Notice states that the tenants failed to pay rent of \$5,400.00 that was due on July 17, 2019. It also sets out an effective end of tenancy date of August 11, 2019.

The landlord claims that the tenants have failed to pay rent for:

May 2019	Unpaid Rent, \$1,800.00
June 2019	Unpaid Rent, \$1,800.00
July 2019	Unpaid Rent, \$1,800.00
August 2019	Unpaid Rent, \$1,800.00
September 2019	Unpaid Rent, \$1,800.00
October 2019	Unpaid Rent, \$1,800.00

The landlords claim that since the 10 Day Notice dated July 31, 2019 was served and up to the date of this hearing, the tenants have failed to pay any rent or vacate the premises.

The tenants confirmed that no rent has been paid as per the landlord's claims. The tenants stated that they have not paid any rent in protest to the landlord's inaction to deal with many reported issues.

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

In this case, I accept the undisputed evidence of both parties and find that the landlords did serve the tenants with a 10 Day Notice dated July 31, 2019. The tenants confirmed that no rent has been paid as claimed by the landlords in a dispute over issues with the rental unit. The tenants provided testimony that permission was not given by the landlord to not pay any rent nor have the tenants received authorization from an Arbitrator of the Residential Tenancy Branch in a written decision authorizing the tenants to not pay the rent. On this basis, I find that the landlords have established a claim for an order of possession and a monetary order for \$10,800.00 in unpaid rent. As the landlords have been successful in their application, I find that the landlords are entitled to recovery of the \$100.00 filing fee. The order of possession to be effective 2 days after it is served upon the tenants.

Conclusion

The landlords are granted an order of possession.

The landlords are granted a monetary order for \$10,900.00.

These orders must be served upon the tenants. Should the tenants fail to comply with the orders, the orders may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 24, 2019

Residential Tenancy Branch