



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFL MNRL-S OPC OPR**

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- A monetary order for unpaid rent and for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement pursuant to section 67 of the *Act*;
- An order for possession under a 10-Day Notice to End Tenancy for Unpaid Rent ("Ten-Day Notice ") pursuant to sections 46 and 55;
- An order for possession under a One Month Notice to End Tenancy for Cause ("One Month Notice") pursuant to sections 47 and 55;
- Authorization to retain all or a portion of the tenants's security deposit in partial satisfaction of the monetary order requested pursuant to section 72 of the *Act*;
- Authorization to recover the filing fee for this application pursuant to section 72.

I conducted this hearing by teleconference. The landlord attended and provided affirmed testimony. The landlord made submissions as well as presented oral and written evidence.

The tenants did not attend the hearing. I kept the teleconference line open from the time the hearing was scheduled for eleven minutes to allow the tenants the opportunity to

call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenants had been provided.

The landlord testified the landlord served the tenants with the Application for Dispute Resolution and supporting documents pursuant to section 89 of the *Act* by personal service on the tenants on October 25, 2019. Pursuant to the *Act*, I find the landlord served the tenants on October 25, 2019.

The landlord testified the landlord filed an Amendment to the landlord's application increasing the monetary order requested to include additional accumulated outstanding rent and personally served the Amendment on the tenants on November 15, 2019. I find the landlord served the Amendment on November 15, 2019.

Issue(s) to be Decided

Is the landlord entitled to an order of possession pursuant to sections 46, 47 and 55 of the *Act*?

Is the landlord entitled to a monetary order pursuant to section 67 of the *Act*?

Is the landlord entitled to retain the security deposit pursuant to section 72 of the *Act*?

Is the landlord entitled to reimbursement of the filing fee pursuant to section 72 of the *Act*?

Background and Evidence

The landlord testified that the parties entered into a signed residential tenancy agreement commencing August 1, 2019. Rent is currently \$1,000.00 a month payable on the first of the month.

The landlord testified the tenants paid a security deposit at the start of the tenancy, of \$500.00 which is held by the landlord. The tenants have not provided any written authorization to the landlord to retain the deposit.

The landlord issued the Ten-Day Notice which the landlord testified the landlord served by posting to the tenants' door on October 14, 2019, thereby affecting service under section 90 on October 17, 2019 claiming unpaid rent of \$1,000.00.

The landlord submitted a copy of the Ten-Day Notice with an effective vacancy date of October 24, 2019 (corrected to October 27, 2019) as evidence. The Notice requires the tenants to pay the rent and utilities to the landlord or file an Application for Dispute Resolution within five days.

The landlord testified the tenants did not pay the rent owing or file an Application for Dispute resolution within five days.

The tenants have made no subsequent payments and continued to reside in the rental unit.

The landlord submitted the following in support of the claim for outstanding rent:

- a monetary worksheet
- receipts for rent paid by the tenants for the months of August and September 2019

The landlord provided uncontradicted testimony that rent is owing in the amount of \$3,000.00.

The landlord requested a monetary order for outstanding rent of \$3,000.00 reimbursement of the filing fee of \$100.00 and authorization to apply the security deposit to the monetary award for a total award requested of \$2,600.00.

The landlord requested an order of possession effective two days after service.

A summary of the landlord's claim follows:

ITEM	AMOUNT
Rent	\$ 3,000.00
Reimbursement of the filing fee	\$100.00
(Less security deposit)	(\$500.00)
Total Monetary Award Requested	\$2,600.00

Analysis

I have reviewed all documentary evidence and testimony.

I find the form and content of the Ten-Day Notice complies with section 52 of the *Act*.

I find the tenants were served with the Ten-Day Notice on October 17, 2019 in accordance with sections 88 and 90 of the *Act*.

I find the tenants did not pay the overdue rent or dispute the Ten-Day Notice within the five-day period following service.

Therefore, pursuant to section 46(5), the tenants are conclusively presumed to have accepted the tenancy ends on the effective date of the notice of October 27, 2019 requiring the tenants to vacate the rental unit by that date.

As the tenants continued to occupy the unit, I find the landlord is entitled to an order of possession under section 46, effective two days after service.

Based on the uncontradicted evidence of the landlord, I find the landlord is entitled to a monetary order pursuant to section 67 in the amount of \$3,000.00 for unpaid rent. I award the landlord reimbursement of the \$100.00 filing fee.

Further to the offsetting provisions of section 72, the landlord is entitled to apply the security deposit of \$500.00 to the monetary award.

A summary of my monetary finding follows:

ITEM	AMOUNT
Rent	\$ 3,000.00
Reimbursement of the filing fee	\$100.00
(Less security deposit)	(\$500.00)
Total Monetary Order	\$2,600.00

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As the landlord has been granted an order of possession pursuant to the Ten-Day Notice, no evidence was heard regarding the One Month Notice which is dismissed without leave to reapply.

Conclusion

I grant a monetary order to the landlord in the amount of **\$2,600.00**.

This order must be served on the tenants. If the tenants fail to comply with this order, the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

I also grant the landlord an order of possession effective two days after service on the tenants.

This order must be served on the tenants. If the tenants fail to comply with this order, the landlord may file the order with the Supreme Court of British Columbia to be enforced as an order of that Court.

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: December 06, 2019

Residential Tenancy Branch