



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPRM-DR, MNR

Introduction

This hearing was initiated by way of a Direct Request Proceeding but was reconvened as a participatory hearing by the Adjudicator considering the Application.

The reconvened hearing was convened to consider the Landlord's application for an Order of Possession for Unpaid Rent, for a monetary Order for unpaid rent, and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that the on October 24, 2019 the Dispute Resolution Package and evidence the Landlord submitted to the Residential Tenancy Branch in October of 2019 were personally served to each Tenant. In the absence of evidence to the contrary, I find that these documents have been served to both Tenants in accordance with section 89 of the Act; however, neither Tenant appeared at the hearing.

As the aforementioned documents have been properly served to the Tenants, the hearing proceeded in the absence of the Tenants and the evidence was accepted as evidence for these proceedings.

The parties present at the affirmed that they would speak the truth, the whole truth, and nothing but the truth at these proceedings.

Preliminary Matter

The Owner applied to amend the Application for Dispute Resolution to include unpaid rent from November and December of 2019. I find that it was reasonable for the Tenants to conclude that the Landlord is seeking to recover all of the rent that is currently due, including unpaid rent that has accrued since the Application for Dispute Resolution was filed. I therefore grant the application to amend the monetary claim to include all rent that is currently due.

Issue(s) to be Decided

Is the Landlord is entitled to an Order of Possession; to a monetary Order for unpaid rent; and to recover the fee for filing this Application for Dispute Resolution, pursuant to sections 55, 67, and 72 of the *Residential Tenancy Act (Act)*?

Background and Evidence

The Owner stated that:

- this tenancy began on August 12, 2011;
- both Tenants agreed to pay monthly rent of \$800.00 by the first day of each month;
- no rent has been paid for October, November, or December of 2019;
- a Ten Day Notice to End Tenancy for Unpaid rent was personally served to each Tenant on October 03, 2019; and
- the Notice to End Tenancy declared that the Tenants must vacate the rental unit by October 13, 2019.

Analysis

On the basis of the undisputed testimony I find that both Tenants entered into a tenancy agreement with the Landlord, by agreeing to pay monthly rent of \$800.00 by the first day of each month.

Section 26(1) of the *Act* requires tenants to pay rent to their landlord. On the basis of the undisputed testimony I find that the Tenants have not paid the \$800.00 in rent that was due on October 01, 2019. As the Tenants have not yet paid this rent, I find they owe \$800.00 to the Landlord for rent for October of 2019.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within 10 days if proper notice is given to the tenant.

On the basis of the undisputed evidence I find that on October 03, 2019 the Tenants were personally served with the Ten Day Notice to End Tenancy, which declared that they must vacate the rental unit by October 13, 2019.

Section 46(4) of the *Act* stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice to End Tenancy. In the circumstances before me I have no evidence that the Tenants exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenants accepted that the tenancy has ended. On this basis I will grant the Landlord an Order of Possession that is effective **at 1:00 p.m. on December 31, 2019.**

On the basis of the undisputed evidence I find that the Tenants occupied the rental unit for the month of November of 2019, without paying any rent. I find that they are obligated to pay rent for that month, given that they occupied the unit.

On the basis of the undisputed evidence I find that the Tenants are still occupying the rental unit, without paying any rent for December of 2019. I find that they are obligated to pay rent for that month, given that they occupied the unit for the first half of the month and the Order of Possession entitles them to remain in the unit until the end of the month.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Landlord has been granted an Order of Possession that is effective **at 1:00 p.m. on December 31, 2019**. This Order may be served on the Tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$2,500.00, which includes \$2,400.00 in unpaid rent and \$100.00 for the filing fee. Based on these determinations I grant the Landlord a monetary Order \$2,500.00. In the event that the Tenants do not comply with this Order, it may be served on the Tenants, filed with the Province of British Columbia Small Claims Court and 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 16, 2019

Residential Tenancy Branch