



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, OPR, FFL

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 and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' pet damage and security deposits (the deposits) in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 11:10 a.m. in order to enable them to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package were sent to both tenants by registered mail on May 20, 2020. The landlord entered into written evidence the Canada Post Tracking Numbers, showing that the package was delivered on May 22, 2020. In accordance with section 89 of the *Act*, I am satisfied that both tenants were served with the landlord's dispute resolution hearing, accordingly; the hearing proceeded and completed on that basis.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to retain all or a portion of the tenants' deposits in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

The landlord gave the following undisputed testimony. The tenancy began on or about August 1, 2019. Rent in the amount of \$3500.00 is payable in advance on the first day of each month. The tenants paid a security deposit of \$1750.00 which the landlord holds. The tenants failed to pay rent in the month(s) of March 2020 and on March 17, 2020 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of April, May and June. The landlord advised that as of today's hearing the amount of unpaid rent is \$10,000.00. The landlord seeks a monetary order for unpaid rent and the recovery of the \$100.00 filing fee for a total award of \$10,100.00 along with an order of possession.

Analysis

The tenants failed to pay their rent in full within five days of being deemed to have received the 10 Day Notices. The tenants have not made application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy on the corrected effective date of the notice.

As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord is granted an Order of Possession pursuant to Section 55(2)(b) of the *Act*, which must be served on the tenant(s). If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed evidence provided by the landlord, I am satisfied that the tenants continue to owe the landlord unpaid rent. Using the offsetting provision under Section 72 of the *Act*, I hereby apply the security deposit against the amount of unpaid rent.

Conclusion

The landlord has established a claim for \$10,100.00. I order that the landlord retain the \$1750.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$8350.00. This order may be filed in the 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: June 15, 2020

Residential Tenancy Branch