



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes: MNRL-S, OPL-4M, FFL

### **Introduction**

In this dispute, the landlords seek unpaid rent pursuant to sections 26 and 67 of the *Residential Tenancy Act* (the “Act”), an order of possession on a Four Month Notice to End Tenancy for Demolition, Renovation, Repair or Conversion of Rental Unit (the “Notice”) pursuant to sections 49 and 55 of the Act, and, recovery of the application filing fee pursuant to section 72 of the Act.

The landlords applied for dispute resolution on June 15, 2020 and a dispute resolution hearing was held, by teleconference, on July 13, 2020. Two landlords attended the hearing and they were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. The tenant did not attend.

The landlords confirmed and testified that they served the Notice of Dispute Resolution Proceeding package on the tenant by way of Canada Post registered mail on June 18, 2020. A copy of the Canada Post receipt and tracking number were provided in evidence, and the Canada Post online tracking website indicated that the package was delivered on June 22, 2020. The landlord also testified that the tenant acknowledged that she had received the package. Based on this undisputed oral and documentary evidence I find that the landlords served the tenant in compliance with sections 59(3) and 89(1)(c) of the Act.

I have only reviewed and considered oral and documentary evidence submitted meeting the requirements of the *Rules of Procedure*, to which I was referred, and which was relevant to determining the issues of this application.

### **Issues**

1. Are the landlords entitled to an order of possession?
2. Are the landlords entitled to a monetary order for unpaid rent?
3. Are the landlords entitled to recovery of the filing fee?

### Background and Evidence

The landlords testified that the tenant currently lives in the rental unit and that monthly rent is \$512.00. The tenant paid a security deposit of \$230.00. There was, I note, no copy of a written tenancy agreement submitted into evidence.

On December 30, 2019, the landlords served the Notice on the tenant by posting the Notice to the tenant's door. A copy of the Notice, along with a Proof of Service document, were submitted into evidence, and which were completed correctly.

The Notice indicated that the tenancy would end April 30, 2020 because the landlords needed to perform renovations or repairs that are so extensive that the rental unit must be vacant for a period of six to eight weeks. Further, the landlords testified that the tenant did not dispute the Notice within the 30 days permitted by the Act.

Rent for June 2020 was waived, as this was the free month of rent that tenants are entitled to when a tenancy is ended in this manner, and the tenant originally agreed to leave by the end of June. However, the tenant remained in the rental unit and has, as of July 13, not paid rent for July. As such, the landlords seek a monetary order in the amount of \$512.00 for the unpaid rent for July. In addition, the landlords seek recovery of the filing fee in the amount of \$100.00.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

#### **1. Application for Order of Possession**

Section 55(2)(b) of the Act states that

A landlord may request an order of possession of a rental unit in any of the following circumstances by making an application for dispute resolution: [. . .]

a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired

In addition, section 55(4) of the Act states that

In the circumstances described in subsection (2)(b), the director may, without any further dispute resolution process under Part 5 [*Resolving Disputes*],

(a) grant an order of possession, and

(b) if the application is in relation to the non-payment of rent, grant an order requiring payment of that rent.

In this case, the Notice was given by the landlords on December 30, 2019 by posting it on the tenant's door. According to section 90(c) of the Act, the Notice was deemed to be received by the tenant on the third day after it is attached to the door, that is, January 2, 2020. Therefore, the tenant had until February 1, 2020 in which she could dispute the Notice. The tenant did not dispute the notice by making an application for dispute resolution, and, the time for making that application has long since expired.

Taking into consideration all the oral and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlords have met the onus of proving their application for an order of possession. As such, I grant the landlords an order of possession pursuant to section 55(4)(a) of the Act.

The order of possession will go into effect on July 20, 2020, and, should the tenant not vacate the rental unit by that date, then the landlords must serve a copy of the order of possession on the tenant. The order of possession is issued in conjunction with this decision, to the landlords.

As discussed in the hearing, however, the landlords may provide the tenant with some flexibility as to the vacate date, which may be up to but no later than July 31, 2020. This flexibility shall remain at the landlords' discretion.

## **2. Application for Compensation for Unpaid Rent**

Monthly rent is \$512.00, and it is due on the first of the month. The tenant did not pay the rent on July 1 and as such is in arrears for the rent for July 2020.

Accordingly, I grant the landlords a monetary award for \$512.00 for the rent for July 2020.

### **3. Application for Filing Fee**

Section 72(1) of the Act provides that an arbitrator may order payment of a fee under section 59(2)(c) by one party to a dispute resolution proceeding to another party. A successful party is generally entitled to recovery of the filing fee. As the landlords were successful in their application, I grant their claim for reimbursement of the filing fee of \$100.00. A total monetary order of \$612.00 is therefore granted to the landlords.

### **Conclusion**

I grant the landlords an order of possession, which must be served on the tenant and which is effective July 20, 2020. This order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

I grant the landlords a monetary order in the amount of \$612.00, which must be served on the tenant. Should the tenant fail to pay the landlords the amount owed, the landlords may file, and enforce, the order in the Provincial Court of British Columbia.

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: July 13, 2020

---

Residential Tenancy Branch