



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPM, MNRL-S, MNDCL-S, FFL

Introduction

On September 9, 2020, the Landlords applied for a Dispute Resolution proceeding seeking an Order of Possession based on a Mutual Agreement to End a Tenancy pursuant to Section 55 of the *Residential Tenancy Act* (the “*Act*”), seeking a Monetary Order for compensation pursuant to Section 67 of the *Act*, seeking to apply the security deposit towards this debt, and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

Both Landlords attended the hearing; however, the Tenant did not attend at any point during the 24-minute hearing. All parties in attendance provided a solemn affirmation.

Landlord C.M. advised that the Tenant was served the Notice of Hearing and evidence package by registered mail on September 17, 2020 (the registered mail tracking number is noted on the first page of this Decision). The tracking history indicated that this package was delivered on September 21, 2020. Based on this undisputed evidence and testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was deemed to have received the Notice of Hearing and evidence package five days after it was mailed.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Are the Landlords entitled to an Order of Possession based on the Mutual Agreement to End a Tenancy?
- Are the Landlords entitled to a Monetary Order for compensation?
- Are the Landlords entitled to apply the security deposit towards this debt?

- Are the Landlords entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

C.M. advised that the tenancy started on February 1, 2020, that rent was currently established at \$2,050.00 per month, and that it was due on the first day of each month. A security deposit of \$1,025.00 was also paid. A copy of the signed tenancy agreement was submitted as documentary evidence.

He stated that a Mutual Agreement to End a Tenancy was signed with the Tenant on August 18, 2020 with an effective end date of the tenancy for August 31, 2020 at 1:00 PM. This agreement was entered into evidence. As the Tenant had not moved out by the effective date of the agreement, the Landlords applied for an Order of Possession.

He also advised that the Tenant has not paid rent for the months of March, April, May, June, July, August, September, and October 2020 and is in arrears **\$16,400.00**, which the Landlords are seeking compensation for.

In addition, he stated that the Tenant owed utilities for February, March, April, May, June, July, and August 2020, totalling **\$555.95**, which the Landlords are seeking compensation for. They submitted copies of these invoices to support this claim.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

I note that Section 55 of the *Act* allows the Landlords to submit an Application for Dispute Resolution seeking an Order of Possession based on a Mutual Agreement to End a Tenancy, and I must consider if the Landlords are entitled to that Order if the agreement is valid.

As well, Section 44 of the *Act* allows a tenancy to end by mutual consent of both the Landlords and the Tenant.

Section 67 of the *Act* allows a Monetary Order to be awarded for damage or loss when a party does not comply with the *Act*.

With respect to claims for damages, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, "It is up to the party who is claiming compensation to provide evidence to establish that compensation is due", that "the party who suffered the damage or loss can prove the amount of or value of the damage or loss", and that "the value of the damage or loss is established by the evidence provided."

In considering this matter, I have reviewed the Mutual Agreement to End a Tenancy and both the Landlords and Tenant signed and agreed to the terms stated in that agreement. Based on the undisputed evidence before me, I am satisfied that the Landlords and Tenant agreed to mutually end the tenancy on August 31, 2020 at 1:00 PM. As the Tenant failed to vacate the rental unit by this time, I find that the Landlords are entitled to an Order of Possession effective **two days after service of this Order** on the Tenant.

With respect to the Landlords' claims for compensation in the amount of \$16,400.00 for the rental arrears from March to October 2020, I am satisfied from the undisputed evidence that the Tenant is in arrears for this rent. As such, I grant the Landlords a monetary award in the amount of **\$16,400.00** to satisfy this claim.

Regarding the Landlords' claims for the outstanding utilities, I am satisfied from the Landlords' undisputed evidence that they have corroborated this claim. As such, I find that the Landlords are entitled to a monetary award in the amount of **\$555.95** to satisfy this claim.

As the Landlords were successful in this Application, I find that the Landlords are entitled to recover the \$100.00 filing fee paid for this Application. Under the offsetting provisions of Section 72 of the *Act*, I allow the Landlords to retain the security deposit in partial satisfaction of the debt outstanding.

Pursuant to Sections 67 and 72 of the *Act*, I grant the Tenants a Monetary Order as follows:

Calculation of Monetary Award Payable by the Landlord to the Tenants

Item	Amount
Rental arrears from March to October 2020	\$16,400.00
Utilities Owed from February to August 2020	\$555.95
Filing Fee	\$100.00
Less Security Deposit	-\$1,025.00
Total Monetary Award	\$16,030.95

Conclusion

The Landlords are provided with a formal copy of an Order of Possession effective **two days after service of this Order**. Should the Tenant or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I also provide the Landlords with a Monetary Order in the amount of **\$16,030.95** in the above terms, and the Tenant must be served with **this Order** as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: November 2, 2020

Residential Tenancy Branch