



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNRL, FFL, OL

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession, for a monetary Order for unpaid rent or utilities, and to recover the fee for filing this Application for Dispute Resolution.

The male Landlord stated that on December 17, 2020 the Dispute Resolution Package and evidence the Landlord submitted to the Residential Tenancy Branch were sent to each Tenant, via registered mail, at the service address noted on the Application. The Landlord submitted Canada Post documentation that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenants did not appear at the hearing.

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

The Landlords were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each Landlord affirmed that they would provide the truth, the whole truth, and nothing but the truth at these proceedings.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and to a monetary Order for unpaid rent or unpaid utilities?

Background and Evidence

The male Landlord stated that:

- this tenancy began on May 01, 2014;
- the Landlords and the Tenants entered into an oral tenancy agreement;
- the Tenants agreed to pay monthly rent of \$1,300. 00 by the first day of each month;
- the Tenants have not paid rent for October of 2020, November of 2020, December of 2020, January of 2021, February of 2021, or March of 2021;
- the Landlord would like to amend the Application for Dispute Resolution to include a claim for unpaid rent for February and March of 2021;
- the male Tenant is still living in the rental unit;
- he is not certain if the female Tenant is still living in the unit;
- a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities has never been served to the Tenants; and
- the Tenants were served with a written letter, dated October 11, 2020, which declares that the rental unit must be vacated.

Analysis

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.

On the basis of the undisputed evidence, I find that:

- the Tenants entered into an oral tenancy agreement with the Landlord;
- the Tenants agreed to pay monthly rent of \$1,300.00 by the first day of each month;
- at least one of the Tenants are still living in the rental unit; and
- the Tenants have not paid rent for any period after October 01, 2020.

As the Tenants are required to pay rent when it is due, pursuant to section 26(1) of the Act, I find that the Tenants must pay \$7,800.00 in outstanding rent to the Landlord.

Section 46(1) of the *Act* entitles landlords to end a tenancy within ten days if rent is not paid when it is due by providing proper written notice. Proper notice to end the tenancy pursuant to section 46 of the *Act* is a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities.

On the basis of the undisputed evidence I find that the Landlord has not served the Tenants with a Ten Day Notice to End Tenancy. I find that the letter submitted in evidence, dated October 11, 2020, does not serve as proper notice to end the tenancy, as it does not comply with section 52 of the *Act*, as is required by section 46(2) of the *Act*.

As the Landlord has not yet served proper notice to end this tenancy pursuant to section 46 of the *Act*, I find that the Landlord does not yet have the right to end this tenancy for unpaid rent. I therefore dismiss the Landlord's application for an Order of Possession.

The Landlord retains the right to serve the Tenants with a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities if the rent remains unpaid.

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

Conclusion

The application for an Order of Possession is dismissed.

The Landlord has established a monetary claim, in the amount of \$7,900.00, which includes \$7,800.00 in unpaid rent and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. I grant the Landlord a monetary Order for \$7,900.00. In the event 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 *Act*.

Dated: March 05, 2021

Residential Tenancy Branch