



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPRM-DR, OPR-DR-PP, FFL

Introduction

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

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

Legal Counsel for the Landlord stated that on December 04, 2020 the Dispute Resolution Package and evidence the Landlord submitted to the Residential Tenancy Branch in November of 2020 were sent to the Tenants, via registered mail. The Tenant stated that these documents were not received, as the registered mail had been returned to the sender by the time her son attempted to pick up the mail. I find that these documents were served to the Tenants in accordance with section 89 of the *Residential Tenancy Act (Act)*, although they were not received by the Tenants.

Legal Counsel for the Landlord stated that on January 06, 2021 the Dispute Resolution Package, the evidence the Landlord submitted to the Residential Tenancy Branch in November of 2020, and the notice of this hearing were sent to the Tenants, via registered mail. The Tenant stated that these documents were also not received, as the registered mail had been returned to the sender by the time her son attempted to pick up the mail. I find that these documents were served to the Tenants in accordance with section 89 of the *Act*, although they were not received by the Tenants.

Legal Counsel for the Landlord stated that on February 21, 2021 the Dispute Resolution Package, the evidence the Landlord submitted to the Residential Tenancy Branch in November of 2020, and the notice of this hearing were posted on the door of the rental unit. The Tenant stated that these documents were received. As the Tenant acknowledged receipt of these documents, I find they were sufficiently served, pursuant to section 71(2)(c) of the *Act*. I therefore accept the evidence as evidence for these proceedings.

The Tenant stated that the other Applicant, who is her son, is aware of the proceedings, but is unable to attend. She stated that she is representing him at these proceedings.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant, with the exception of legal counsel, affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

Issue(s) to be Decided

Are the Landlords entitled to an Order of Possession for unpaid rent; pursuant to section 55 of the *Residential Tenancy Act (Act)*?

Are the Landlords entitled to a monetary Order for unpaid rent?

Background and Evidence

After considerable discussion about the terms of this tenancy, service of a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities, and rent owing, the Landlord and the Tenant mutually agreed to settle all issues in dispute at these proceedings under the following terms:

- The tenancy will end, by mutual consent on April 30, 2021;
- The Landlord will be granted an Order of Possession that requires the Tenants to vacate the unit by April 30, 2021;
- The Tenants will pay rent of \$900.00 for April by April 01, 2021;
- The Tenants will pay \$2,000.00 to the Landlord today, by cheque, as partial payment for unpaid rent;
- The Tenants will pay \$500.00 to the Landlord, by cheque, on March 21, 2021, as partial payment for unpaid rent;

- The Tenants will pay \$500.00 to the Landlord, by cheque, on each subsequent Sunday after March 21, 2021, as partial payment for unpaid rent, until the full outstanding rent of \$13,700.00 is paid;
- In the event the Tenants fail to pay any of the aforementioned payments toward the outstanding rent, the Landlord has the right to immediately enforce the monetary Order the Landlord is being granted, in the amount of \$13,700.00;
- Any “bounced cheque” constitutes a “missed payment”; and
- The Landlord may serve the Order of Possession and the monetary Order to the Tenants, via email

The aforementioned settlement agreement was summarized for the parties on at least two occasions. All participants clearly indicated their intent to resolve this dispute under these terms.

The participants acknowledged that they understand they were not required to enter into this agreement and that they were doing so voluntarily.

The participants acknowledged that they understood the agreement was final and binding.

Analysis

I find that the parties have mutually agreed to settle all issues in dispute at these proceedings, in accordance with the aforementioned terms.

Conclusion

On the basis of the aforementioned settlement agreement, the Landlord is granted an Order of Possession that is effective at 1:00 p.m. on April 30, 2021. This Order may be served on the Tenants, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

On the basis of that settlement agreement, the Landlord is granted a monetary Order for \$13,700.00. In the event the Tenants fail to pay any of the agreed upon payments toward the outstanding rent, the Landlord has the right to serve the monetary Order to the Tenants, file it with the Province of British Columbia Small Claims Court, and enforce it as an Order of that Court. In the event the monetary Order is enforced by the Province of British Columbia Small Claims Court, the parties are advised that the

amount of the monetary Order will likely be reduced by any amount the Tenants have paid towards the debt of \$13,700.00.

This settlement agreement is recorded and the Orders granted on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: March 12, 2021

Residential Tenancy Branch