



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1048332 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL

Introduction and Preliminary Matter

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a residential tenancy dispute. The Landlords applied for:

- an order of possession, having issued a 10 Day Notice to End Tenancy for Unpaid Rent, dated August 29, 2021 (the 10 Day Notice);
- a monetary order for unpaid rent, having issued a 10 Day Notice; and
- the filing fee.

The hearing started on time at 11:00 a.m. The Tenants did not attend, though the teleconference line remained open for the duration of the 33-minute hearing. The Landlords attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were also made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Landlords testified that they served the Notice of Dispute Resolution Proceeding (NDRP) on the Tenants by registered mail on November 18, 2021, and provided a Canada Post receipt and tracking number. The Landlords testified that on the same day they also served the NDRP on the Tenants by email, in accordance with an order for substituted service granted on December 9, 2021, and submitted a copy of the email as proof of service. The Landlords testified they served their evidence on the Tenants on January 5, 2022 by email, in accordance with the granted order for substituted service, and submitted a copy of the email as proof of service. In accordance with section 90 of the Act, I find the NDRP deemed received by the Tenants on November 21, 2021, and the Landlord's evidence deemed received by the Tenant on January 8, 2022. Based on the Landlords' testimony and evidence, I find the Landlords served the NDRP and their evidence on the Tenants in accordance with section 89 of the Act.

At the beginning of the hearing, the Landlords testified that as the Tenants vacated the rental unit on November 6, 2021, the Landlords were no longer seeking an order of possession.

Therefore, I dismiss the Landlords' application for an order of possession.

Issues to be Decided

- 1) Are the Landlords entitled to a monetary order for unpaid rent?
- 2) Are the Landlords entitled to the filing fee?

Background and Evidence

The Landlords provided the following particulars regarding the tenancy. It began May 1, 2017; rent was \$1,900.00 a month, due on the first of the month; and the Tenants paid a security deposit of \$925.00, which the Landlords have returned. The Landlord submitted a copy of the tenancy agreement as evidence. The Landlords testified that the rent was reduced from \$1,950.00 to \$1,900.00 after one of the Tenants moved out.

The Landlords submitted a copy of the 10 Day Notice as evidence. It is signed and dated by the Landlords, gives the address of the rental unit, states an effective date of the Notice, states the reason for ending the tenancy, and is in the approved form.

The Landlords testified the 10 Day Notice was served on the Tenants by attaching it to the door on August 29, 2021.

The Landlords testified the Tenants owe outstanding rent as follows:

Date rent due	Amount rent due	Tenant's payment	Monthly balance outstanding
Jan 1, 2021	\$1,900.00	\$1,500.00	\$400.00
Feb 1, 2021	\$1,900.00	\$0.00	\$1,900.00
Mar 1, 2021	\$1,900.00	\$0.00	\$1,900.00
Apr 1, 2021	\$1,900.00	\$0.00	\$1,900.00
May 1, 2021	\$1,900.00	\$0.00	\$1,900.00
Jun 1, 2021	\$1,900.00	\$0.00	\$1,900.00
Jul 1, 2021	\$1,900.00	\$0.00	\$1,900.00
Aug 1, 2021	\$1,900.00	\$0.00	\$1,900.00
Sept 1, 2021	\$1,900.00	\$0.00	\$1,900.00

Oct 1, 2021	\$1,900.00	\$0.00	\$1,900.00
Nov 1, 2021	\$380.00 (prorated)	\$0.00	\$380.00
		Total	\$17,880.00

In addition to their affirmed testimony, the Landlords provided supporting evidence including two Direct Request Worksheets summarizing the rent paid and owing, and a copy of their own rent paid and owing tracking sheet.

Analysis

Section 26 of the Act provides that a tenant must pay the rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, regulations, or the Tenancy agreement, unless the tenant has a right under the Act to deduct all or a portion of the rent.

Having reviewed the relevant testimony and evidence, on a balance of probabilities, I make the following findings.

I find that the tenancy agreement required the Tenants to pay the Landlords rent of \$1,950.00 each month. I accept the Landlords' testimony that after one of the Tenants moved out, rent was reduced to \$1,900.00 per month.

Based on the Landlords' affirmed undisputed testimony, I find the Landlords served the 10 Day Notice on the Tenants on August 29, 2021 by attaching it to the door. I find the Landlords served the Notice in accordance with section 88 of the Act, and deem it received by the Tenants on September 1, 2021. I find that the 10 Day Notice meets the form and content requirements of section 52.

I accept the Landlord's undisputed affirmed testimony that the Tenants owe unpaid rent in the amount of \$17,880.00. There is no evidence before me that the Tenants had a legal right to withhold payment of rent.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlords are successful in their application, I order the Tenants to pay the \$100.00 filing fee the Landlords paid to apply for dispute resolution.

I find the Landlords are entitled to a monetary order in the amount of \$17,980.00, comprised of \$17,880.00 for unpaid rent and \$100.00 for the filing fee.

Conclusion

The Landlords' application is granted.

The Landlords are granted a monetary order in the amount of \$17,980.00, for unpaid rent and recovery of the filing fee.

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: January 25, 2022

Residential Tenancy Branch