



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

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DECISION

Dispute Codes MNDL-S, OPC, FFL, MNRL, OPR

Introduction

The landlord sought various relief under the *Residential Tenancy Act* ("Act"). A dispute resolution hearing was held on August 29, 2022 and only the landlord attended.

The landlord was affirmed, and he gave evidence that he served the Notice of Dispute Resolution Proceeding on the respondents by registered mail on May 13, 2022. The mail was returned unclaimed by the respondents. Based on this undisputed evidence it is my finding that the landlord served the required notice upon the respondents necessary for them to participate in the dispute resolution process. That the respondents chose to not pick up the registered mail does not stop the proceedings.

Issues

1. Is the landlord entitled to compensation?
2. Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began August 1, 2008 and monthly rent, which is due on the first day of the month, is \$750.00. The tenants paid a \$375.00 security deposit which the landlord has in trust pending the outcome of this application.

On May 6, 2022 the landlord served a One Month Notice to End Tenancy for Cause (the "Notice") on the tenants. A copy of the completed Notice, along with a proof of service document, was tendered into evidence. To the landlord's knowledge the Notice was never disputed by the tenants.

The landlord further testified that the tenants owe \$4,200.00 in rent as of August 1, 2022.

As an aside, while the landlord's application referred to a claim for compensation related to the tenants' damaging the rental unit due to an unauthorized salon, there is little documentary evidence to support this claim at this time. I explained to the landlord that after the tenancy ends, he is at liberty to make another application for dispute resolution seeking compensation for any damages, if necessary.

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.

Subsection 55(2)(b) of the Act states that a landlord may request an order of possession of a rental unit when 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 this case, the landlord gave the Notice (under section 47 of the Act) to the tenants on May 6, 2022, and the tenants had ten days to dispute the Notice, which they did not (see subsection 47(4) of the Act). Having reviewed the Notice it is my finding that it complies with section 52 of the Act in form and content.

Taking into consideration all of the undisputed oral and documentary evidence before me, it is my finding that the landlord has proven on a balance of probabilities that he is entitled to an order of possession under section 55(2)(b) of the Act.

A copy of the order of possession, which as a two-day effective period after service upon the tenants, is issued to the landlord in conjunction with this decision. The landlord may, if necessary, enforce the order of possession in the Supreme Court of British Columbia.

Section 26 of the Act states that a tenant must pay rent when it is due under the tenancy agreement. The landlord testified under oath that the tenants have not paid rent for several months and currently owe \$4,200.00. Based on this undisputed evidence it is my finding that the tenants owe this amount and are, pursuant to section 67 of the Act, ordered to pay the landlord.

The landlord was successful in this application is thereby entitled to recover the cost of the \$100.00 application filing fee pursuant to section 72 of the Act. In total, the landlord is awarded \$4,300.00.

Section 38(4)(b) of the Act permits me to authorize a landlord to retain a tenant's security deposit after the end of a tenancy. As such, the landlord is hereby ordered to retain the tenants' security deposit of \$375.00 in partial satisfaction of the amount awarded.

The balance of the award (\$3,825.00) is granted by way of a monetary order. A copy of this monetary order is issued in conjunction with this decision, to the landlord. If the tenants refuse, or are otherwise unable to pay, to the landlord this amount the landlord may enforce the monetary order in the Provincial Court of British Columbia.

Conclusion

IT IS HEREBY ORDERED THAT:

- 1. The landlord's application is granted.**
- 2. An order of possession is granted to the landlord.**
- 3. A monetary order in the amount of \$3,825.00 is issued to the landlord.**
- 4. The landlord may retain the tenants' \$375.00 security deposit.**
- 5. The tenancy is ended effective immediately.**

This decision is final and binding, and it is made on delegated authority under section 9.1(1) of the Act. A party's right to appeal this decision is limited to grounds provided under section 79 of the Act or by an application for judicial review under the *Judicial Review Procedure Act*, RSBC 1996, c. 241.

Dated: August 29, 2022

Residential Tenancy Branch