



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL, FFL

Introduction

The landlords applied to the Residential Tenancy Branch [the 'RTB'] for Dispute Resolution. The landlords ask me for the following orders against the tenants.

1. Exclusive possession of the rental unit in favour of the landlord.
2. Payment of \$3,800.00 of unpaid rent.
3. Reimbursement for the \$100.00 filing fee for this application.

The landlords appeared at the hearing on 23 May 2023. The tenants did not.

Preliminary Matter - Non-appearance at the Hearing

The tenants did not attend this hearing, although I left the teleconference hearing connection open throughout the hearing which commenced at 1100 hours and ended at 1123 hours. I confirmed:

- that the landlords personally served a copy of this Notice of Hearing on the tenants on 13 April 2023;
- that the RTB had provided the correct call-in numbers and participant codes in the Notice of Hearing; and
- by reviewing the teleconference system, that the landlords and I were the only ones who had called into this teleconference.

Rule 7.3 of the RTB Rules of Procedure reads:

7.3 Consequences of not attending the hearing

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The tenants failed to attend this hearing, but I conducted it in their absence. The landlords' evidence satisfied me that they had correctly notified the tenants of this hearing and how to participate.

Issues to be Decided

Did the Notice end the tenancy?

Do the tenants owe the landlords rent?

Should the tenants reimburse the landlords for the cost of filing this application?

Background and Evidence

The landlords told me that the tenants agreed to pay \$1,200.00 in rent each month on the first day of each month.

They also told me that for December 2022, the tenants only paid \$1,000.00 for rent. After that, the landlords have received no rent at all from the tenants.

As a result, the landlords drew up the Notice on or about 9 March. In drawing the Notice, the landlords:

1. used the form approved by the RTB;
2. signed and dated the Notice;
3. recorded the address of the rental unit;
4. recorded the effective date of the Notice as 21 March 2023; and
5. stated the basis for the Notice as the Applicant's failure to pay rent.

The landlords then had an agent serve the Notice personally on the tenants on 11 March. One of the tenants signed the landlords' copy of the Notice, in acknowledgement of having received it.

In reviewing a copy of the tenancy agreement that the landlords provided as part of the application, I note that the tenants deposited with the landlords \$600.00 for security, and \$600.00 for a pet.

There was no evidence that the tenants ever disputed this Notice.

Analysis

Based on the evidence before me, I find that the Notice is an effective notice, and that the landlords served it on the tenants on 11 March.

There is no evidence that the tenants applied for dispute resolution after receiving this Notice. According, therefore, to section 47 (5) of the *Residential Tenancy Act* [the 'Act'], the tenants are conclusively presumed to have accepted that the tenancy ended on 21 March 2023.

The landlords' uncontroverted evidence was that the tenants failed to pay at total of \$6,200.00 in rent [\$200.00 owing for December 2022, plus five months rent owing for this year (*i.e.* \$1,200.00 x 5 = \$6,000.00)], and so I will order that the tenants pay the landlords that amount.

As the landlords succeeded in their application, I will also order that the tenants pay an additional \$100.00 to reimburse the landlords for the cost of filing this application.

Conclusion

I make an Order of Possession in favour of the landlords. This order is effective two days after the landlords serve it upon the tenants. If the tenants or any occupant of the rental unit fails to comply with my order, then the landlords can file this order with the Supreme Court of British Columbia, and enforce it as an order of that court.

At the end of the tenancy the tenants must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. Tenants and landlords both have an obligation to complete a move-out condition inspection at the end of the tenancy.

I also order that the tenants pay to the landlords \$6,200.00 for unpaid rent *per* section 55 (1.1) of the Act, plus \$100.00 for the cost of this application.

I authorise the landlords to retain the tenants' security and pet deposits of \$1,200.00 in partial satisfaction of this sum *per* section 72 (2) (b) of the Act.

The landlords must serve this order on the tenants as soon as possible. If the tenants do not comply with my order, then the landlords may file this order in the Small Claims Division of the Provincial Court of British Columbia. Then the landlords can enforce my order as an order of that court.

I make this decision on authority delegated to me by the Director of the RTB *per* section 9.1(1) of the Act.

Dated: 23 May 2023

Residential Tenancy Branch