



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL MNDCL-S MNRL-S OPR

Introduction

This decision pertains to the landlords' application for dispute resolution made under the *Residential Tenancy Act* (the "Act") filed on November 28, 2018. The landlords seek the following relief:

1. an order of possession for unpaid rent;
2. a monetary order for money owed or compensation for damage or loss; and,
3. a monetary order granting recovery of the filing fee.

The landlords' agent attended the hearing before me and was given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. The tenant did not attend.

The landlords provided documentary evidence that the Notice of Dispute Resolution Hearing package was served on the tenant on December 3, 2018, 018, by way of registered mail. The tenant failed to pick up the mail. Based on the evidence of the agent, I am satisfied that the tenant was served pursuant to section 89 of the Act.

While I have reviewed all oral and documentary evidence submitted, only relevant evidence pertaining to the issues of this application are considered in my decision.

Issues to be Decided

1. Are the landlords entitled to an order of possession for unpaid rent?
2. Are the landlords entitled to a monetary order for money owed?
3. Are the landlords entitled to a monetary order granting recovery of the filing fee?

Background and Evidence

The landlords' agent testified and confirmed the following:

The tenancy started on October 12, 2017. Monthly rent, due on the first of the month, is \$1,400.00. The tenant paid a security deposit in the amount of \$700.00. The tenant has not paid rent for several months and is in arrears in the amount of \$6,000.00.

A 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") was served on the tenant by being left on the door, by the landlord's agent, pursuant to section 89 of the Act. The Notice was served on October 2, 2018 and indicated an end of tenancy date of October 12, 2018.

Submitted into evidence by the landlords was a statement of account showing the amounts of unpaid rent, a copy of the written tenancy agreement, a copy of the Notice, a copy of the written tenancy agreement, and copy of the registered mail tracking information with which the Notice of Dispute Resolution Proceeding package was served.

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.

Claim for Unpaid Rent

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement, unless the tenant has a right under the Act to deduct all or a portion of the rent. Pursuant to section 46 of the Act, the Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days of service.

The Notice also explains that the tenant had five days from the date of service to dispute the Notice by filing an Application for Dispute Resolution.

Taking into consideration all the unchallenged oral and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlords have met the onus of proving their claim regarding unpaid rent in the amount of \$6,000.00. As such, the landlords are entitled to a monetary award for unpaid rent in the amount of \$6,000.00. Further, I order that the security deposit held be applied to the award granted to the landlords.

I find that the landlords are entitled to recover the \$100.00 filing fee.

A total monetary award of \$5,400.00 for the landlords is thus calculated as follows:

CLAIM	AMOUNT
Unpaid rent	\$6,000.00
Filing fee	\$100.00
LESS security deposit	(\$700.00)

Total:	\$5,400.00
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Order of Possession

Section 55 (1) (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, and the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired.

Applying section 55 of the Act to the unchallenged testimony regarding the tenant's failure to pay rent, and regarding the tenant's failure to apply for dispute resolution, pursuant to sections 46 and 55 of the Act, I hereby grant an order of possession to the landlords. As requested by the landlords' agent, the order is effective at 1:00 P.M. (Pacific Standard Time) on January 31, 2019.

Conclusion

The landlords are granted an order of possession for unpaid rent. This order must be served on the tenant no later than January 18, 2019, and is effective on January 31, 2019. This order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

The landlords are granted a monetary order in the amount of \$5,400.00. This order must be served on the tenant and may be filed in, and enforced as an order of, the Provincial Court of British Columbia (Small Claims).

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: January 11, 2019

Residential Tenancy Branch