



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding POWELL RIVER INCLUSIVE HOUSING SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR, MNR-DR, 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 unpaid rent.
3. Reimbursement for the \$100.00 filing fee for this application.

The corporate landlords appeared at the hearing on 1 May 2023, by way of an agent. The tenants did not appear.

Issues to be Decided

Should the landlords have exclusive possession of the unit?

Should the tenants pay the landlords unpaid rent?

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

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 about 30 minutes later. I confirmed:

1. that the landlords affirmed that they served a copy of this Notice of Hearing by posting it to the door of the rental unit on 26 March;

2. that the RTB had provided the correct call-in numbers and participant codes in the Notice of Hearing; and
3. 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.

Background and Evidence

The landlords affirmed that the tenants agreed to pay \$765.00 on the first business day of each month for rent.

They corroborated this with a copy of a tenancy agreement signed by them on 1 June 2022. They told me that they saw the tenants sign this agreement. And they corroborated the date rent is due by proffering a copy of an automatic-withdrawal form that they said they saw the tenants sign. This form notes that rent will be withdrawn on the first business day of each month.

Then the landlords told me that the tenants have not paid rent from July 2022 to April 2023. They said that this totals \$7,050.00 (after subtracting \$600.00 in compensation for a hot-water issue that the landlords said the tenants had to deal with). They weren't aware of this failure to pay rent for many months. As the tenants had agreed to pay rent by automatic withdrawal, the landlords didn't discover that these payments weren't clearing until about six months into the tenancy.

After the landlords discovered this failure to pay rent, they issued a 10-day Notice to End Tenancy for Unpaid Rent [the 'Notice'] on 13 January 2023. They told me the following about this Notice:

1. they signed and dated it on 13 January;
2. they entered the correct address of the rental unit;
3. they recorded the effective date of the Notice as 24 January;
4. they stated the basis for the Notice as failure to pay rent from July to January;
and
5. they personally served this Notice an adult who appeared to live with the tenants (*i.e.* the tenants' 'boyfriend').

The landlords corroborated this evidence with a copy of the Notice, and with a copy of a signed statement of a witness who saw the landlords give the Notice to the cohabitating adult.

Analysis

Should the landlords have exclusive possession of the unit?

Based on the evidence before me, I find that the Notice is an effective notice, and that the landlords effectively served it on the tenants on 13 January.

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 24 January 2023.

Should the tenants pay the landlords for unpaid rent?

Section 26 (1) of the Act places a positive obligation upon the tenants to pay rent. There is no evidence that the tenants have fulfilled this obligation. Accordingly, I find that the tenants are liable to the landlords for the amount of rent they are seeking, *i.e.* \$7,050.00.

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

As the landlords have succeeded in their application, the tenants should reimburse them for the cost of filing it.

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.

I also order that the tenants pay to the landlords \$7,050.00 for unpaid rent *per* section 55 (1.1) 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: 5 May 2023

Residential Tenancy Branch