



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: OPR, OPC, MND, MNR, MNSD, MNDC, FF, MT, CNR, RP, RP, LRE, LAT, O

Introduction

This matter dealt with applications by both the landlord and the tenants. The landlord seeks an order of possession for unpaid rent and a monetary order for damages to the rental unit. The tenant's application seeks to cancel the landlord's notice to end tenancy and to obtain an order for repairs and money owed in compensation.

At the hearing, the landlord appeared and gave evidence that the tenants had been served the notice of hearing and the application for dispute resolution for file _____ via registered mail on September 25, 2008. The mail was returned as not being accepted by the recipient. I am satisfied that the tenant has been duly served in a prescribed manner and that the hearing would continue in the absence of the tenants.

The tenants have not appeared at the hearing to proceed with their application _____ and I find that they have abandoned their application and I therefore dismiss the application without leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent and damages, and if so in what amount?

Background and Evidence

The landlord gave evidence that the tenancy began in March 2008 at a monthly rent of \$800.00. The landlord also collected a security deposit in the amount of \$400.00 at the start of the tenancy.

The landlord gave evidence that the tenants did not pay rent for the month of September and as such she issued a ten day notice to end tenancy on September 2, 2008. The tenants have not paid the rent following the issuance of that notice and have also not paid the rent for the month of October 2008. The landlord seeks the amount of \$1600.00 in unpaid rent.

The landlord also seeks an amount of up to \$5000.00 for damage to the rental property. This is based upon the landlord viewing the rental unit but she has not presented any evidence by way of photographs or repair estimates.

The tenants had a period of five days after the issuance of the notice to end tenancy which was issued September 2, 2008 to file an application to dispute the notice. The tenants did not file an application until September 22, 2008 and were therefore not within the time limit. The tenant's application requested more time to file the application but as they have not appeared to give evidence to support their application it has been dismissed.

Analysis

I find the evidence of the landlord to be credible in establishing a claim for \$1600.00 in unpaid rent. The landlord is also entitled to recover the \$50.00 filing fee for the cost of this application. I do not find that the landlord has presented any evidence of damages to the rental unit that would justify the issuance of a monetary order at this time and I dismiss that part of the application with leave to re-apply.

I find that the failure of the tenant's application to cancel the notice to end tenancy justifies the issuance of an immediate order of possession to the landlord.

Conclusion

I find that the landlord is entitled to a monetary order for \$1650.00. The landlord may retain the security deposit plus interest in the amount of \$403.85 and I grant an order for the balance of \$1246.15. This order may be filed with and enforced as an order of the Provincial Court of British Columbia.

I grant the landlord an immediate order of possession. The order must be served upon the tenants. The order may be filed with and enforced as an order of the Supreme Court of British Columbia.

Dated: October 21, 2008