



Dispute Resolution Services

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

Decision

Dispute Codes: OPR, CNR, MNR, MNSD, FF

Introduction

This hearing dealt with two applications: 1) from the landlord for an order of possession, a monetary order in compensation for unpaid rent, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee; and 2) from the tenants for cancellation of the notice to end tenancy for unpaid rent. The landlord's agent participated in the hearing and gave affirmed testimony. Despite being served by way of registered mail with the landlord's application for dispute resolution and notice of hearing, the tenants did not appear. It is noted that despite the scheduling of this hearing in response also to the application for dispute resolution from the tenants themselves, neither tenant appeared.

Issues to be Decided

- Whether the tenants are entitled to cancellation of a notice to end tenancy
- Whether the landlord is entitled to an order of possession
- Whether the landlord is entitled to a monetary order under the Act

Background and Evidence

There is no evidence of a written residential tenancy agreement, however, the landlord's agent testified that the month-to-month tenancy began on September 1, 2008. Rent in the amount of \$850.00 is payable in advance on the first day of each month, and a security deposit of \$425.00 was collected at the start of tenancy.

The tenants failed to pay rent for the month of February 2009. Accordingly, the landlord issued a 10 day notice to end tenancy for unpaid rent. Subsequently, the tenants paid

only a portion of rent due on March 1, 2009 in the amount of \$425.00. The landlord's agent submitted into evidence a copy of the 10 day notice dated February 6, 2009 which was served in person on the tenants on that same date. The date shown on the notice by when the tenants must vacate the unit is February 15, 2009.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent. The tenants did not pay the outstanding rent within 5 days of receiving the notice and, while they disputed the notice by filing for dispute resolution, neither tenant appeared at the hearing scheduled by conference call. Accordingly, I dismiss the application from the tenants for cancellation of the notice to end tenancy, and I find that the landlord is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim of \$1,325.00. This is comprised of unpaid rent of \$850.00 for February 2009, unpaid rent of \$425.00 for March 2009, and recovery of the \$50.00 filing fee for this application. I order that the landlord retain the security deposit of \$425.00 plus interest of \$2.12, and I grant the landlord a monetary order under section 67 of the Act for the balance due of \$897.88 (\$1,325.00 - \$427.12).

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service upon the tenants. This order must be served on the tenants. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I hereby grant the landlord a monetary order under section 67 of the Act for **\$897.88**. This order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: March 25, 2009

Dispute Resolution Officer