



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

At the hearing the Agent for the Landlord withdrew the application for a monetary Order as the rental unit has been vacated and she asked that the Application for Dispute Resolution be amended to include a monetary Order for unpaid rent. It is apparent from information included on the Application for Dispute Resolution that the Landlord is also seeking a monetary Order for unpaid rent and this Application has therefore been amended accordingly.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to each Tenant, via registered mail, at the service address noted on the Application, on July 13, 2009. A tracking number for each package was provided. The Canada Post website shows that each package was delivered on July 16, 2009. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenants did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Act*.

Background and Evidence

The Agent for the Landlord stated that this tenancy began on March 01, 2009; that the Tenants were required to pay monthly rent of \$600.00 on the first day of each month; and that the Tenants paid a security deposit of \$300.00 on March 04, 2009.

The Agent for the Landlord stated that a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of July 12, 2009, was personally served on the Tenants by a different agent for the Landlord on July 02, 2009. The Notice declared that the Tenants owed \$700.00 in rent that was due on July 01, 2009. The Notice indicated that the Tenant is presumed to have accepted that the tenancy is ending and that the Tenant must move out of the rental unit by the date set out in the Notice unless the Tenant pays the outstanding rent or files an Application for Dispute Resolution within five days of the date they are deemed to have received the Notice.

The Agent for the Landlord stated that the Tenants did not pay any rent for July of 2009 and that they still owe \$100.00 in rent from June of 2009.

The Agent for the Landlord stated that the Tenants vacated the rental unit sometime in July, although she does not know the exact date.

Analysis

I find that the Tenants entered into a tenancy agreement with the Landlord that required the Tenants to pay monthly rent of \$600.00 on the first day of each month. Section 26(1) of the *Act* requires tenants to pay rent to their landlord when it is due.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenants have not paid \$100.00 in rent from June of 2009 and \$600.00 in rent from July of 2009. As they are required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenants must pay \$700.00 in outstanding rent to the Landlord. I find that the Tenants must pay all of the rent for July, even though they may not have occupied the rental unit for the entire month because their actions prevented the Landlord from finding new tenants for any portion of July.

I find that the Landlord's application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenants for the cost of this Application for Dispute Resolution.

I find that the Landlord is entitled to retain the Tenants' security deposit, in the amount of \$300.00, in partial satisfaction of the monetary claim.



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Housing and Social Development

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$750.00, which is comprised of \$700.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. The Landlord will be retaining the Tenants' security deposit, in the amount of \$300.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$450.00. In the event that the Tenants do not comply with this Order, it may be served on the Tenants, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: August 25, 2009.

Dispute Resolution Officer