



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPR, MNR, MNSD, MNDC, 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 and a monetary Order for unpaid rent and utilities.

The male Landlord stated that he personally served copies of the Application for Dispute Resolution and Notice of Hearing to the male Tenant on November 01, 2009. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

The Landlord has been unable to serve the female Tenant with notice of this hearing as she is not living at the rental unit. The Landlord withdrew the female Tenant's name from the Application for Dispute Resolution, due to their inability to serve her with documents related to this hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent and/or utilities, pursuant to sections 55 and 67 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The female Landlord stated that this tenancy began on February 15, 2009; that the Tenants are required to pay monthly rent of \$1000.00 plus utilities; and that they paid a security deposit of \$500.00 on February 01, 2009.

The female Landlord stated that the Tenants did not pay \$500.00 in rent that was due for February of 2009; \$1,000.00 that was due for March of 2009; \$1,000.00 that was due for April of 2009; 1,000.00 that was due for May of 2009; \$1,000.00 that was due for June of 2009; \$500.00 that was due for July of 2009; \$1,000.00 that was due for

September of 2009; \$1,000.00 that was due for October of 2009; \$1,000.00 that was due for November of 2009; and \$1,000.00 that was due for December of 2009.

The female Landlord stated that she posted a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of October 26, 2009, on the door of the rental unit on October 16, 2009.

The female Landlord stated that a copy of this Notice to End Tenancy was submitted in evidence, however it was not available to me at the time of the hearing. The Landlord was provided the opportunity to fax a copy of the Notice to End Tenancy to me prior, as I do not feel this will unduly prejudice the Tenant. This decision was rendered after reviewing the Notice to End Tenancy that was received by fax.

The Landlord is also seeking compensation, in the amount of \$216.00, for hydro costs incurred during this tenancy. The Landlord did not submit copies of hydro receipts to support their claim for compensation.

Analysis

I find that the Tenants entered into a tenancy agreement with the Landlord that requires the Tenants to pay monthly rent of \$1000.00.00 on the first day of each month. Section 26(1) of the *Act* requires tenants to pay rent to their landlord.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenants did not pay \$500.00 in rent that was due for February of 2009; \$1,000.00 that was due for March of 2009; \$1,000.00 that was due for April of 2009; 1,000.00 that was due for May of 2009; \$1,000.00 that was due for June of 2009; \$500.00 that was due for July of 2009; \$1,000.00 that was due for September of 2009; \$1,000.00 that was due for October of 2009; \$1,000.00 that was due for November of 2009; and \$1,000.00 that was due for December of 2009. As they are required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$9,000.00 in outstanding rent to the Landlord.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within 10 days if appropriate notice is given to the tenant. In the absence of evidence to the contrary, I find that the male Tenant was served with a Notice to End Tenancy that required the Tenants to vacate the rental unit on November 18, 2009, pursuant to section 46 of the *Act*.

Section 46 of the *Act* stipulates that a Tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that either Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenants accepted that the tenancy has ended.

As I have ordered that the Tenant must pay rent for December of 2009, I will grant the Landlord an Order of Possession that is effective on December 31, 2009. Although I accept that the Tenants were required to pay hydro costs, I find that the Landlord has submitted insufficient evidence to establish that the Tenants incurred hydro costs of \$216.00. In reaching this conclusion, I was strongly influenced by the absence of any documentary evidence, such as a receipt, that corroborates the Landlord's statement that the Tenant's incurred hydro expenses in that amount. On this basis, I dismiss the Landlord's application for compensation for unpaid utilities.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective at 1:00 p.m. on December 31, 2009. This Order may be served on the male Tenants filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$9,050.00, which is comprised of \$9,000.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$9,050.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, 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: December 10, 2009.

Dispute Resolution Officer