

Decision

Dispute Codes: OPR, OPB, OPC, MNR, MNSD, MND, MNDC, FF

Introduction

This is the Landlords' application for an Order of Possession for unpaid rent, breach of a material term of the tenancy agreement and cause; a Monetary Order for unpaid rent and damages; to apply the security deposit towards their monetary award; and to recover the cost of the filing fee from the Tenants.

The Tenants did not appear at the Hearing. The Landlord CH gave affirmed evidence.

Preliminary Matters

At the onset of the Hearing, the Landlord CH testified that the Tenants moved out of the rental unit on or about January 9, 2010. Therefore, the Landlords' application for an Order of Possession is dismissed as withdrawn.

Issue(s) to be Decided

- (1) Are the Landlords entitled to Monetary Order for unpaid rent for the month of January, 2010 and damages to the rental unit?
- (2) Are the Landlords entitled to apply the security deposit in partial satisfaction of their monetary award?

Background and Evidence

The Landlord CH testified that she personally served both of the Tenants with the Notice of Hearing documents at the rental unit on January 6, 2010. A Witness was present when the Tenants were served with the Notice of Hearing documents.

The Landlord CH gave the following testimony:

- Rent was \$650.00 per month, due on the first day of each month.
- The Tenants paid a security deposit in the amount of \$325.00 on September 3, 2008.
- The Tenants did not pay rent for the month of January, 2010.
- The Tenants moved out of the rental unit on January 21, 2010.
- The Tenants caused extraordinary damage to the rental unit, which was not evident to the Landlords until after the Tenants had vacated the rental unit. The Landlords have not yet had an opportunity to collect and provide estimates for repair.
- The Landlords testified that the Tenants were responsible to pay utilities under the tenancy agreement and had not done so. The Landlords did not supply a copy of the tenancy agreement in evidence.

Analysis

Based on the Landlord CH's testimony, I am satisfied that the Tenants were served with the Notice of Hearing documents. Despite being served with the Notice of Hearing documents, the Tenants did not sign into the conference and the Hearing proceeded in their absence.

Based on the undisputed testimony of the Landlord CH, I find that the Landlords are entitled to unpaid rent in the amount of \$650.00 for the month of January, 2010.

The Landlord CH testified that the Landlords do not have estimates for all of the damages caused by the Tenants. I dismiss this portion of their application with leave to reapply.

The Landlords did not provide sufficient evidence to prove their claim for unpaid utilities. I dismiss this portion of their claim.

Pursuant to the provisions of Section 72 of the Act, the Landlords may apply the security deposit towards partial satisfaction of their monetary award. Interest has accrued on the security deposit in the amount of \$1.60.

The Landlords have been partially successful in their application and are entitled to recover the cost of the filing fee from the Tenants.

The Landlords have established a Monetary Order, as follows:

| | |
|--|-----------------|
| Unpaid rent for January, 2010 | \$650.00 |
| Recovery of filing fee | <u>\$50.00</u> |
| Subtotal | \$700.00 |
| Less security deposit and accrued interest | <u>\$326.60</u> |
| Balance owing to the Landlords after set-off of security deposit | \$426.60 |

Conclusion

I hereby grant the Landlords a Monetary Order in the amount of \$426.60 against the Tenants. This Order must be served on the Tenants and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

The Landlords' application for a monetary order for damages to the rental unit is dismissed with leave to re-apply.

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*.

February 12, 2010

Date of Decision