

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened by conference call on this date to deal with an application by the landlord for an Order of Possession for unpaid rent and utilities, a monetary order for unpaid rent and utilities, and an order to recover the filing fee for the cost of this application.

Despite having been served with the application for dispute resolution and notice of hearing by registered mail on February 19, 2010, the tenants did not participate in the conference call hearing.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent and utilities?

Is the landlord entitled to a monetary order for unpaid rent and utilities?

Background and Evidence

The tenancy began on November 15, 2009, and the tenants paid a prorated amount of rent for that month. For each month thereafter, rent in the amount of \$950.00 is payable in advance on the first day of each month. On November 11, 2009, the landlord collected a security deposit from the tenants in the amount of \$475.00.

The tenants failed to pay rent in the month of February, 2010 and on February 6, 2010 the landlord served the tenants with a notice to end tenancy for non-payment of rent. The tenants further failed to pay rent in the month of March, 2010 on the 1st of the month, but did pay on March 6, 2010 the amount of \$950.00 by way of money order.

The landlord testified that the tenancy was a fixed term tenancy which was to expire on October 30, 2010. The rental unit is a basement suite, and the landlord resides in the

upper unit of the house. The landlord received a letter from the tenants dated March 5, 2010, a copy of which was provided as evidence, that states that the tenants will vacate the unit on April 1, 2010. The landlord is claiming an Order of Possession with a move-out date 2 days after service of the Order of Possession upon the tenants, and is also claiming loss of revenue for the month of April, 2010.

The Tenancy Agreement, a copy of which was provided by the landlord as evidence in advance of the hearing, shows that the tenants are also responsible for 30% of the utilities, which the landlord testified is BC Hydro and Terasen Gas. She stated that the utilities are in her husband's name, and since the BC Hydro bill is always for 2 months, she would deliver a copy of that bill and the Terasen Gas bills to the tenants every other month. She testified that she did so on February 5, 2010, and told the tenants that their share of the combined bills is a total of \$158.49. She further testified that the tenants have not yet paid that amount. Copies of those bills were provided as evidence prior to the commencement of this hearing.

The landlord further testified that she has now received new hydro and gas bills in the amount of \$132.72 for BC Hydro, \$192.89 and \$114.92 for Terasen Gas, and the amount owing by the tenants for those bills is \$132.16. She stated that the bills cover the period up to March 18, 2010.

Analysis

Based on the landlord's testimony I find that the tenants were duly served with a notice to end tenancy for non-payment of rent. The tenants have not paid the outstanding rent and have not applied for dispute resolution to dispute the notice and are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

As for the monetary order, I find that the landlord has established a claim for \$2,190.65 in unpaid rent and utilities. The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

Based on the above facts I find that the landlord is entitled to an Order of Possession. The tenants must be served with the Order of Possession. 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 further order that the landlord retain the deposit and interest of \$475.00 in partial satisfaction of the claim, pursuant to my authority under Section 72 of the *Residential Tenancy Act*, and I grant the landlord an order under Section 67 for the balance due of \$1,765.65. This order may be filed in the 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: March 24, 2010.

Dispute Resolution Officer