

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on February 20, 2010, the tenants did not participate in the conference call hearing. The landlord did attend the hearing and gave affirmed evidence.

At the outset of the hearing, the landlord testified that the description portion of the Landlord's Application for dispute Resolution contains a claim for parking, which is not the case, and that portion of the application is hereby dismissed.

Issues(s) to be Decided

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

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

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on November 2, 2008. Rent in the amount of \$950.00 is payable in advance on the first day of each month. At the outset of the tenancy, 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 5, 2010 the landlord served the tenants with a notice to end tenancy for non-payment of rent by posting it to the door of the residence. The tenants further failed to pay rent in the months of March and April, 2010. The tenancy agreement, a copy of which was provided as evidence in advance of the hearing, shows that \$20.00 is payable for each month as late fees and the landlord is claiming \$60.00 for 3 months. The landlord also testified that the account for these tenants has been carrying a \$5.00 credit, which should be deducted from the amount of rent owed.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant has not paid the outstanding rent and has not applied for dispute resolution to dispute the notice and is 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 \$2,845.00 in unpaid rent and \$60.00 in late fees. 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. Each tenant 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 order that the landlord retain the deposit and interest of \$475.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,480.00. This order must be served on the tenants and 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: April 08, 2010.

Dispute Resolution Officer