

DECISION

Dispute Codes OPR, MNR, MND, MNSD, FF

Introduction

This matter dealt with an application by the Landlords for an Order of Possession and a Monetary Order for unpaid rent, to recover the filing fee for this proceeding and to keep the Tenants' security deposit in partial payment of those amounts.

The Landlord said she received an Order of Possession in other proceedings on March 11, 2010 and as a result, that part of the Landlord's application is dismissed without leave to reapply.

The Landlord said she served the Tenants by registered mail with a copy of the Application and Notice of Hearing. Based on the evidence of the Landlord, I find that the Tenants were served as required by s. 89 of the Act and the hearing proceeded in their absence.

Issues(s) to be Decided

1. Are there arrears of rent and if so, how much?
2. Is the Landlord entitled to keep the Tenants' security deposit?

Background and Evidence

This tenancy started on March 1, 2000 and ended on March 15, 2010 when the Tenants moved out. Rent was \$925.00 per month payable in advance on the 1st day of each month. The Tenants paid a security deposit of \$325.00 on February 26, 2000.

The Landlord said the Tenants were served with a Ten Day Notice to End Tenancy for Unpaid Rent when they failed to pay rent for March 2010 when it was due. The Landlord said rent is still unpaid for that month.

Analysis

RTB Policy Guideline #3 – Claims for Rent and Damages for Loss of Rent states that a Landlord may elect to end a tenancy and sue the tenant for loss of rent. The damages to which a Landlord is entitled is an amount sufficient to compensate the Landlord for any loss of rent up to the earliest time the Tenant could have legally ended the tenancy. Under section 45 of the Act, a Tenant of a month-to-month tenancy must give one clear months notice. Given that the effective date of the 10 Day Notice to End Tenancy was March 12, 2010, the earliest the Tenants could have ended the tenancy (had they given

written notice on that date) would have been April 30, 2010. As a result, I find that the Landlords are entitled to recover unpaid rent and a loss of rental income for March, 2010 in the total amount of \$925.00.

As the Landlords have been successful in this matter, I find that they are entitled to recover the \$50.00 filing fee for this proceeding. I order the Landlords pursuant to s. 38(4) of the Act to keep the Tenants' security deposit of \$325.00 plus accrued interest of \$27.48 in partial payment of the rent arrears. The Landlords will receive a monetary order for the balance owing of \$622.52.

Conclusion

A monetary order in the amount of **\$622.52** has been issued to the Landlords and a copy of it must be served on the Tenants. If the amount is not paid by the Tenants, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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 27, 2010.

Dispute Resolution Officer