

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF, MT, CNR,

Introduction

In the landlord's application, the landlord applied for orders as follows pursuant to the *Residential Tenancy Act* (the *Act*):

1. An Order of Possession pursuant to section 55.
2. A monetary order for unpaid rent and late fees pursuant to section 67.
3. An order to be allowed to keep all or part of the security deposit pursuant to section 38.
4. To recover the filing fee for the cost of this application pursuant to section 72.

The tenants' application applied for the following:

1. An extension of time to make an application to cancel the landlord's June 1, 2010 Notice to End Tenancy pursuant to section 66.
2. Cancellation of the landlord's June 1, 2010 Notice to End Tenancy for unpaid rent pursuant to section 46.
3. To recover the filing fee for the cost of this application pursuant to section 72.

The tenants did not appear. The landlord was given full opportunity to be heard, to present evidence and to make submissions. The landlord provided evidence that he provided two 10 Day Notices to End Tenancy for Unpaid Rent to the tenants. He testified that he left the first of these notices under the tenant's door on June 1, 2010. He posted a second 10 Day Notice on the tenant's door on June 18, 2010, because he had concerns as to whether he had complied with the service delivery requirements of the *Act*. I am satisfied that the landlord's service of the second of these notices on June 18, 2010 was in accordance with the *Act* and as such the tenants have been served with the June 18, 2010 Ten Day Notice to End Tenancy.

The landlord gave sworn testimony that he sent the tenants the Application for Dispute Resolution hearing package by registered mail. He entered into evidence a copy of

Canada Post's tracking numbers for the two registered letters sent to the tenants. He testified that he received confirmation from Canada Post that the female tenant signed for receipt of her package on July 7, 2010 at 1:08 p.m. He said that the package to the male tenant was returned to him by Canada Post. I accept that the tenants were duly served with the Application for Dispute Resolution hearing packages.

The landlord testified that he received the tenants' application for dispute resolution.

Issues(s) to be Decided

Are the tenants entitled to an extension of time to make an application to cancel the landlord's June 1, 2010 10 Day Notice to End Tenancy for Unpaid Rent?

Is the landlord entitled to an Order of Possession, a monetary order for unpaid rent, and recovery of the filing fee for this application? Is the landlord entitled to retain the tenant's security deposit?

Background and Evidence

The landlord testified that the tenants signed a one year fixed term tenancy agreement on February 15, 2010. Rent was established at \$750.00 per month and \$9.00 for a cable television channel, for a total of \$759.00 per month. The landlord continues to hold the tenants' \$375.00 security deposit plus interest.

The landlord gave evidence that he issued the tenants a 10 Day Notice to End Tenancy on June 1, 2010 after they did not pay their June 2010 rent. He said that he has not received the required \$759.00 payments from them for June or July 2010. He asked for an Order of Possession on the basis of the second 10 Day Notice to End Tenancy that he provided to them on June 18, 2010. He requested a monetary order for unpaid rent for the months of June, July and August 2010. The landlord testified that he does not believe that he will be able to rent the premises until September 2010, based on the timing of the hearing of this application.

Analysis

June 1, 2010 Notice to End Tenancy for Unpaid Rent

On June 9, 2010, the tenants applied for dispute resolution regarding the landlord's June 1, 2010 Notice to End Tenancy. In their application, they provided no explanation for why they did not seek dispute resolution until after the five-day period for doing so had expired. As the tenants did not attend the hearing and provided no evidence to support their application for an extension of time, I dismiss the tenants' application to have the June 1, 2010 Notice to End Tenancy cancelled.

However, the landlord testified that he did not serve the June 1, 2010 notice in a method established under the *Act*. I am unwilling to grant the landlord an Order of Possession on the basis of the June 1, 2010 Notice to End Tenancy.

June 18, 2010 Notice to End Tenancy for Unpaid Rent-Order of Possession

As outlined above, the landlord corrected the service problems associated with the first Notice to End Tenancy by serving the tenants with a second Notice on June 18, 2010. The landlord testified that the tenants did not pay the outstanding rent within five days of receiving the June 18, 2010 notice. The tenants have not made application for dispute resolution pursuant to section 46(4) of the *Act* within five days of having been deemed to have received the landlord's June 18 notice to end their tenancy. The tenants' failure to take either of these actions has ended their tenancy. As they have not vacated the rental premises, I find the landlord is entitled to a 2 day Order of Possession. I am attaching an Order of Possession which must be served on the tenants. If these premises are not vacated within the two days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Monetary Order

I grant the landlord a monetary award to recover unpaid and lost rent for these rental premises for the months of June, July and August, 2010. I authorize the landlord to

apply all of the tenants' security deposit plus interest to partially offset the amount of this monetary award. No interest is payable over this period. I allow the landlord to recover his application fee from the tenant. The monetary order is calculated as follows:

Unpaid June 2010 Rent	\$759.00
Unpaid July 2010 Rent	759.00
Lost August 2010 Rent	759.00
Less Security Deposit	-375.00
Recovery of Filing Fee for this application	50.00
Total Monetary Award	\$1,952.00

Conclusion

I grant the landlord an Order of Possession to take effect within two days of the Order being served to the tenants. I grant the landlord a monetary order in the amount of \$1,952.00 as set out above which includes an allowance for recovery of the landlord's filing fee for this application. I authorize the landlord to retain the tenants' security deposit.

I dismiss the tenants' application to have the June 1, 2010 Notice to End Tenancy cancelled.

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: July 29, 2010.

Dispute Resolution Officer