

DECISION

Dispute Codes:

Landlord: OPR, MNR, MNSD and FF
Tenant: CNR

Introduction

These applications were brought by both the landlord and the tenant.

By application of June 11, 2010, the landlord seeks an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by posting on the tenants' door on June 2, 2010. The landlord also seeks a Monetary Order for the unpaid rent and utilities, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

By application of June 9, 2010, the tenants seek to have the Notice to End Tenancy set aside.

Despite having brought application, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, their application is dismissed without leave to reapply and the hearing proceeded on the landlord's application in the tenants' absence.

Issues to be Decided

The landlords' application requires decisions on whether the Notice to End Tenancy should be set aside or upheld, whether the landlord is entitled to a Monetary Order for unpaid rent, utilities and filing fee and authorization to retain the security deposit.

Background and Evidence

This tenancy began on January 1, 2010. Rent is \$1,890 per month and the landlord holds a security deposit of \$945 paid on November 24, 2009.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served when the tenants had failed to pay the rent for June 2010. In the interim, the landlord stated that the tenants had also failed to pay the rent for July 2010.

The landlord's agent stated that the tenants had verbally advised that they were vacating the rental unit on July 25, 2010, but they failed to appear for the scheduled move-out condition inspection report.

In addition, the landlord gave evidence that the tenants owe \$385.38 in unpaid utilities for which they were responsible under the rental agreement..

Analysis

Section 46 of the *Act* states that if rent is not paid, a landlord may end the tenancy by issuing a 10-day Notice to End Tenancy on any day after the rent is due. The tenant may nullify the notice by paying the overdue rent within five days of receipt of the Notice. In this instance, I find that the rent remained unpaid to the time of the hearing.

Accordingly, I find that the Notice to End Tenancy is valid and lawful and that the landlord is entitled to an Order of Possession effective at 1 p.m. on July 28, 2010.

I further find that, including recovery of the filing fee and authorization to retain the security deposit in set off, which I award under section 72 of the *Act*, the tenants owe the landlord an amount calculated as follows:

June rent	\$1,890.00
July rent	1,890.00
Unpaid utilities	385.38
Filing fee	<u>50.00</u>
Subtotal	\$4,215.38
Less retained security deposit (No interest due)	- 945.00
TOTAL	\$3,270.38

Conclusion

The tenants' application is dismissed without leave to reapply.

The landlords' copy of this decision is accompanied by:

1. An Order of Possession, enforceable through the Supreme Court of British Columbia, effective at 1 p.m. on July 26, 2010;
2. In addition to authorization to retain the security deposit in set off, a Monetary Order for \$3,270.38, enforceable through the Provincial Court of British Columbia, for service on the tenants.

July 26, 2010