



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession for unpaid rent or utilities; for a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlord to retain the security deposit in partial satisfaction of the claim; and to recover the filing fee from the tenants for the cost of this application.

The landlord's agent attended the conference call hearing however, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on September 23, 2010, the tenants did not attend.

The landlord also provided evidence in advance of the hearing which she intended to rely on during the hearing. The landlord's agent gave affirmed testimony, and all information has been reviewed and is considered in this Decision.

Issues(s) to be Decided

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

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

Is the landlord entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

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

Background and Evidence

This fixed term tenancy began on May 1, 2010 and is to expire on April 30, 2011. Rent in the amount of \$875.00 is payable in advance on the 1st day of each month. On April 26, 2010 the landlord collected a security deposit from the tenants in the amount of \$437.50.

The landlord testified that the tenants failed to pay rent in the month of September, 2010. The tenancy agreement, a copy of which was provided in advance of the hearing, states that the tenant is liable for \$20.00 in late fees for each month that the rent is paid late. The landlord served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on September 2, 2010 by posting it to the door of the rental unit. A copy of the notice was also provided in advance of the hearing and it states that the tenants failed to pay rent in the amount of \$875.00 that was due on September 1, 2010; it is dated September 2, 2010 and provides an expected date of vacancy of September 12, 2010.

The tenants further failed to pay rent for the month of October. The landlord is claiming \$875.00 in outstanding rent for each of the months of September and October, 2010 as well as \$40.00 in late fees.

Analysis

Based on the landlord's testimony I find that the tenants were served with a notice to end tenancy for non-payment of rent. I find that the notice is deemed to have been served upon the tenants on the 5th day of September, 2010 and therefore the notice ought to have an expected date of vacancy of September 15, 2010. Pursuant to Section 53 of the *Residential Tenancy Act*, I find that the form is deemed to show that date of the expected vacancy.

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 deemed effective date of the notice.

As for the monetary order, I find that the landlord has established a claim for \$1,750.00 in unpaid rent and \$40.00 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. 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 order that the landlord retain the security deposit and interest of \$437.50 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,402.50. This order may be filed in the Provincial Court of British Columbia, Small Claims division 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: October 28, 2010.

Dispute Resolution Officer