



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, 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 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 attended the conference call hearing however, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents personally on October 7, 2010, the tenants did not attend.

The landlord gave affirmed testimony and all information provided by the landlord 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 retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The landlord testified that this month-to-month tenancy began on June 5, 2010, and the landlord collected a pro-rated amount of rent for that month. Thereafter, rent is payable in advance on the 1st day of each month in the amount of \$550.00. The landlord

testified that the security deposit amount was \$275.00, and provided a copy of the tenancy agreement to support that evidence however the tenants only paid \$138.00 on June 4, 2010. The written tenancy agreement also states that the tenancy was a fixed term tenancy to expire on May 31, 2011.

The tenants failed to pay rent in the months of July, August and September, 2010 and on September 9, 2010 the landlord served the tenants personally with a notice to end tenancy for non-payment of rent. The tenants further failed to pay rent in the months of October and November, 2010. A copy of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was also provided by the landlord, which states that the tenants failed to pay rent in the amount of \$1,650.00 that was due on September 1, 2010. The notice is dated September 9, 2010 and contains an effective date of vacancy of September 19, 2010.

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. 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 effective date of the notice.

As for the monetary order, I find that the landlord has established a claim for \$2,750.00 in unpaid rent. 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 further order that the landlord retain the deposit and interest of \$138.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,662.00. 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: November 05, 2010.

Dispute Resolution Officer