



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes: MNR, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

1. A monetary order pursuant to Section 67;
2. An Order to recover the filing fee pursuant to Section 72.

I accept that the tenants were properly served with the Notice to End Tenancy by posting the Notice to the rental unit door and the Application for Dispute Resolution hearing package sent them by registered mail left unclaimed.

The tenants did not appear. The landlord was given full opportunity to be heard, to present evidence and to make submissions.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

Issue(s) to be Decided

Are the landlords entitled to monetary order for unpaid rent and recovery of the filing fee?

Preliminary Matter

At the hearing of this matter the landlords testified that in addition to a monetary award for unpaid rent and recovery of the filing fee they were seeking an Order of Possession and to be allowed to retain the security deposit in partial satisfaction of their claim for

rental arrears. Upon inspection of the Application for Dispute Resolution that was served on the tenants the requests for an Order of Possession were made but then crossed off and initialled by the landlords as though they were no longer being requested. As this is the document served on the tenants to provide them with notice of the orders being sought, I am unable to consider the application for the Order of Possession because I find that that having crossed the request off their Application, the landlords have not provided notice to the tenants that they intended to seek an order of Possession. However, I note that the 10 day Notice to End Tenancy has not been disputed by the tenants within the time frame allowed under the Act. In these circumstances the tenants are deemed to have accepted that the tenancy ended on the date set out on that Notice. As the tenants have not vacated the landlords can apply for an Order of Possession on that basis.

Background and Findings

Based on the evidence of the landlord I find that there are rental arrears and I therefore grant the landlord a monetary order in the sum of \$3,600.00 representing \$1,800.00 rent for each of December 2010 and January 2011.

Filing Fees

I find that the landlord is entitled to recover the filing fees paid for this application.

Calculation of total Monetary Award

The landlord holds a security deposit of \$900.00. As this tenancy has ended because the tenants have not disputed the Notice to End Tenancy, I will use the offsetting provisions of Section 72 of the Act to allow the landlords to retain this sum in partial satisfaction of the monetary award made in favour of the landlords as follows:



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Rental Arrears	\$3,600.00
Filing Fees for the cost of this application	50.00
Less security deposit off-set	-900.00
Total Monetary Award	\$2,750.00

Conclusion

The landlord is provided with a formal copy of an order for the total monetary award as set out above. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Provincial Court of British Columbia.
