



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent; and to recover the filing fees associated with this application.

The landlord participated in the hearing and provided affirmed testimony. He testified that he served the Notice of a Dispute Resolution Hearing to the tenants by way of registered mail sent on January 11th, 2011. The tenants did not participate and the hearing proceeded in the tenant's absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and for what amount?

Background and Evidence

The rental unit consists of a detached home located in Burnaby. Pursuant to a written agreement, the month to month tenancy started on July 15th, 2009. The monthly rent of \$1550.00 was payable on the first of each month. The tenants paid a security deposit in the amount of \$775.00.

The landlord submitted that the tenants only paid half the rent in the amount of \$775.00 for the month of January 2011. The landlord stated that he served the tenants with a 10 Day Notice to End Tenancy by posting the notice on the door on January 2nd, 2011. The landlord said that one of the two tenants is still in the unit, and that around mid-January he told the landlord that he expected to be out of the unit by February 1st. The landlord made an application for an order of possession, and a monetary claim for the balance of January rent and half the rent for February 2011 in the sum of \$1550.00.

Analysis

I accept the landlord's undisputed testimony that he served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to the *Residential Tenancy Act*. One of the tenants spoke with the landlord in mid-January and I am satisfied that the tenants knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a Notice to End Tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenants in this matter have not filed an application for dispute resolution.

I find in this matter that the landlord is entitled to an Order of Possession and a Monetary Order as claimed.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenants. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord has established a claim for \$1550.00. Since he was successful, I grant the landlord recovery of the filing fee for a claim totalling \$1600.00. Pursuant to Section 67 of the Act, I authorize the landlord to retain the tenants' \$775.00 security deposit and I award the landlord a monetary claim for the balance of \$825.00.

This Order may be registered in the Small Claims Court 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: January 31, 2011.

Residential Tenancy Branch