



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, OPL, MNR, & FF

Introduction

This hearing dealt with an application by the landlord seeking an Order of Possession and a monetary relief due to unpaid rent.

The landlord appeared and provided affirmed oral testimony and provided documentary evidence prior to the scheduled hearing date. The landlord testified that the tenants were served with notice of this application and hearing in person on January 17, 2011.

I proceeded with the hearing in the tenant's absence.

Issue(s) to be Decided

Is the landlord entitled to a monetary claim due to unpaid rent?

Background and Evidence

The landlord purchased this rental property in May 2010. The tenants were the current tenants and had been tenants in the rental unit for approximately six years. The landlord stated that the monthly rent was \$840.00 and he received a \$404.00 security deposit which the tenants had paid at the start of the tenancy.

In June 2010 the tenants requested that the landlord provide them with one month's free rent which the landlord agreed to. In July and August 2010 the tenants paid only \$800.00 of the \$840.00 owed for each month and then the tenants requested a rent reduction for September 2010. The landlord confirmed that as of September 1, 2010 he reduced the monthly rent to \$640.00 and in October 2010 the parties agreed to an additional payment of \$20.00 per month for electricity in a storage shed used by the tenants.

In November 2010 the landlord gave the tenants a 2 month Notice to End Tenancy for Landlord's Use of the Rental Unit and on December 8, 2010 the landlord served the

tenants with a 10 day Notice to End Tenancy Due to Unpaid Rent. The landlord stated that the tenants vacated the rental unit on January 31, 2011.

The landlord seeks the following unpaid rent:

Unpaid Rent for July 2010	\$40.00
Unpaid Rent for October 2010	\$160.00
Unpaid Rent for November 2010	\$460.00
Unpaid Rent for December 2010	\$460.00
Unpaid Rent for January 2011	\$660.00
Total	\$1,820.00

The landlord submitted that the tenants were provided their one month's compensation pursuant to section 49 of the *Act* when the landlord did not require the tenants to pay the rent owed for June 2010.

The landlord also seeks to recover the \$50.00 filing fee paid for this application.

Analysis

Based on the evidence provided by the landlord and in the absence of evidence to the contrary, I find that the tenants have failed to pay rent owed in the amount of **\$1,100.00**. I find that the landlord is not entitled to rent for January 2011 as the landlord is required to provide the tenants one month compensation due to issuing a 2 month Notice to End Tenancy for Landlord's Use of the Rental Unit in November 2010. I do not accept the landlord's argument that this compensation was provided by waiving the rent owed for June 2010. I find that the waiver of the rent for June 2010 was a verbal agreement made between the parties at that time and was not associated to the subsequent notice to end tenancy issued six months later. I also find that the landlord waived the rent owed of \$80.00 for July and August 2010 by failing to issue a notice to end tenancy and then subsequently agreeing to a rent reduction of \$200.00 a month effective September 2010.

I do accept the landlord's request to recover the \$50.00 filing fee from the tenants and find that a total monetary claim of **\$1,150.00** has been established.

The landlord does not require an Order of Possession as the tenants have vacated the rental unit effective **January 31, 2011**.

Conclusion

I find that the landlord has established a monetary claim due to breach of the tenancy agreement by the tenants for the sum of **\$1,150.00**. I grant the landlord a monetary Order for this sum. This Order may be filed with the Province of British Columbia 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: February 14, 2011.

Residential Tenancy Branch