



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNSD, & FF

Introduction

This hearing dealt with an application by the landlord seeking an Order of Possession and a monetary claim due to unpaid rent by the tenants. Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross examine the other party, and make submissions to me.

Issue(s) to be Decided

Did the tenants breach the tenancy agreement and *Act* by failing to pay the rent entitling the landlord to an Order of Possession and monetary relief?

Background and Evidence

This tenancy began September 1, 2006 for the monthly rent of \$850.00 and a security deposit of \$450.00 paid by the tenants. The current monthly rent is \$880.00.

On January 4, 2011 the tenants were served with a 10 day Notice to End Tenancy Due to Unpaid Rent. The tenants had five days to either pay the outstanding rent owed or to file an application for Dispute Resolution to dispute the notice.

The landlord is seeking an Order of Possession due to the breach of non-payment of rent and a monetary Order for the outstanding rent owed. The landlord stated that the tenants failed to pay the rent owed for January and February 2011 in the amount of \$1,760.00 but subsequently have paid \$1,020.00 for an outstanding balance of \$740.00.

The tenant submitted that she has been unable to pay the rent due to being ill but is attempting to pay the outstanding amount owed to the landlord.

Analysis

Based on the evidence before me I find that the tenants have failed to pay the remaining rent owed of \$740.00 as required by the tenancy agreement for the months of January and February 2011. I find that the tenants were served with a 10 day Notice to End Tenancy due to Unpaid rent and that the tenants failed to either pay the outstanding rent or to file an application for Dispute Resolution to dispute the notice in the five days provided by section 46(4) of the *Act*.

Pursuant to section 46(5) of the *Act*, I find that the tenants have conclusively accepted the end of the tenancy agreement effective January 15, 2011 and on this basis I grant the landlord's application seeking an Order of Possession for the rental unit.

I find that the tenants owed the sum of **\$790.00** comprised of the outstanding rent owed for January and February 2011 and to recover the \$50.00 filing fee paid for this application. From this sum I Order that the landlord may deduct the tenants' security deposit plus interest of \$438.59 in partial satisfaction of this claim and grant the landlord a monetary Order for the remaining balance owed of **\$351.41**.

Conclusion

I find that the landlord is entitled to an Order of Possession of the rental unit effective **two (2) days** after it has been served upon the tenants. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim due to breach of the tenancy agreement by the tenants for the sum of **\$351.41** and 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 17, 2011.

Residential Tenancy Branch