

DECISION

Dispute Codes OPR, MNR, 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; and to recover the filing fee from the tenant for the cost of this application.

An agent for the landlord company attended the conference call hearing, gave affirmed testimony, and provided an evidence package in advance of the hearing. Despite both tenants separately being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on March 11, 2011 the tenants did not attend the conference call hearing. All evidence and testimony provided has been reviewed and is considered in this Decision.

During the course of the hearing, the landlord's agent advised that the tenants had vacated the rental unit and therefore, the landlord's application for an Order of Possession is withdrawn.

Issue(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?

Background and Evidence

The landlord's agent testified that the owner of the building purchased the rental units about 2 years ago and inherited the tenants, and does not have the original tenancy agreements. The landlord's agent started managing for the landlord in October, 2010 but does not know when the tenancy began or the amount of the security deposit collected. He testified that rent in the amount of \$1,200.00 was payable in advance on the 1st day of each month, and the tenants had no rental arrears up to the end of September, 2010.

The tenants failed to pay rent for the month of October, and continued to reside in the rental unit until the end of February, 2011 without paying rent. The landlord's agent stated that the owner served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, but did not enforce it once the 10 days had expired, contrary to the advice that the landlord received from the property manager. A copy of the notice was

provided in advance of the hearing and it is dated January 7, 2011 and states that the tenants failed to pay rent in the amount of \$4,800.00 that was due on January 1, 2011 and contains an expected date of vacancy of January 17, 2011. The tenants vacated the rental unit on or about February 28, 2011 without paying the outstanding rent.

The landlord claims \$7,200.00 in unpaid rent for October, 2010 to March, 2011 inclusive, and recovery of the \$100.00 filing fee for the cost of this application.

Analysis

I find, in the circumstances that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities is consistent with the testimony of the landlord's agent, and I find that the tenants have failed to pay rent in the amount of \$6,000.00 from October, 2010 to February, 2011. I further find that the tenants did not comply with the notice and vacated the rental unit more than a month after the effective date of the notice, and without any notice to the landlord. I therefore find that the landlord has established loss of rent for the month of March, 2011 in the amount of \$1,200.00.

The landlord has not made an application to retain the security deposit in partial satisfaction of the claim. The landlord must comply with the *Residential Tenancy Act* as it relates to the security deposit. The landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the landlord as against both tenants in the sum of \$7,300.00. 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: March 25, 2011.

Residential Tenancy Branch