



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to an application by the landlord for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony. The request by the landlord's agent at the hearing to amend the application to include retention of the security deposit, was granted.

Despite mailing of the application for dispute resolution and notice of hearing by way of registered mail, the tenants did not appear. Evidence submitted by the landlord includes the Canada Post tracking numbers for the registered mailings.

Issues to be decided

- Whether the landlord is entitled to any or all of the above under the Act, regulation or tenancy agreement

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy is from September 4, 2010 to August 31, 2011. Monthly rent is \$1,200.00 and a security deposit of \$600.00 was collected.

Arising from rent which was unpaid when due on February 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent dated February 15, 2011. The notice was served on the tenants by way of registered mail. The landlord's evidence includes the Canada Post tracking number for the registered mailing. A copy of the notice was submitted into evidence. Subsequently, the tenants made no further payment toward rent and the landlord's agent testified to the understanding that the tenants continue to reside in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated February 15, 2011. The tenants did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The

tenants are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim of \$3,650.00. This is comprised of \$3,600.00 in unpaid rent combined for the 3 months of February, March & April, 2011 (3 x \$1,200.00), in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$600.00 and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$3,050.00 (\$3,650.00 - \$600.00).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenants. This order must be served on the tenants. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$3,050.00**. Should it be necessary, this order may be served on the tenants, filed 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*.

DATE: April 12, 2011

Residential Tenancy Branch