



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, 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; for an order permitting the landlord to retain all or part of the pet damage deposit or security deposit in full or partial satisfaction of the claim; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the tenants for the cost of this application.

An agent for the landlord company attended the conference call hearing, gave affirmed testimony, and provided evidence in advance of the hearing. However, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents separately by registered mail on March 15, 2011, neither tenant attended the hearing. All information and testimony provided has been reviewed and is considered in this Decision.

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?

Is the landlord entitled to retain all or part of the pet damage deposit or security deposit in full or partial satisfaction of the claim?

Is the landlord entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Background and Evidence

This fixed-term tenancy began on May 1, 2010 and expired on October 31, 2010 and then reverted to a month to month tenancy. Rent in the amount of \$1,500.00 per month is payable in advance on the 1st day of each month. On May 4, 2010 the landlord collected a security deposit from the tenants in the amount of \$750.00.

The landlord's agent testified that the tenants failed to pay rent in full for the month of February, 2011, leaving a balance owing of \$400.00. The tenants further failed to pay any rent for the month of March, 2011 and on March 5, 2011 the landlord served the female tenant personally with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, a copy of which was provided in advance of the hearing. The notice states that the tenants have failed to pay rent in the amount of \$1,900.00 that was due on March 1, 2011 and is dated March 5, 2011. The notice contains an expected date of vacancy of March 15, 2011, and both pages of the form have been provided.

The tenants have not paid any rent since February, 2011 and the landlord's agent requests an Order of Possession and a monetary order in the amount of \$3,450.00 for:

- \$400.00 – amount due for February, 2011 rent;
- \$1,500.00 – amount due for March, 2011 rent;
- \$1,500.00 – amount due for April, 2011 rent;
- \$50.00 – recovery of the filing fee.

The landlord's agent also requests an order that the landlord be permitted to retain the security deposit in partial satisfaction of the claim.

Analysis

The *Residential Tenancy Act* states that if a tenant fails to pay rent when it is due, the landlord may serve the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. Once served, the tenant has 5 days to pay the rent in full or apply for dispute resolution. If the tenant does neither, the *Act* states that the tenant is presumed to have accepted that the tenancy ends on the effective date of the notice.

I have examined the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and find that the notice complies with the *Act*, in that it is in the approved form, and I find that it was served in accordance with Section 88 of the *Residential Tenancy Act* on March 5, 2011. The tenants have not paid the outstanding rent and have not applied for dispute resolution to dispute the notice, and are therefore presumed to have accepted that the tenancy ended on the effective date of the notice, or March 15, 2011.

I also accept the evidence of the landlord's agent that the tenants owe \$400.00 for February, 2011 rent in addition to \$1,500.00 for rent for March, 2011. I further find that the landlord has proven a loss of revenue for the month of April, 2011 in the amount of \$1,500.00. The landlord is also entitled to recovery of the \$50.00 filing fee for the cost of this application.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenants. If the landlord serves the Order of Possession on the tenants and 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.

I further order that the landlord retain the security deposit in the amount of \$750.00 and I grant a monetary order in the amount of \$2,700.00 in favour of the landlord. 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: April 05, 2011.

Residential Tenancy Branch