



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNR
 MNR, FF

Introduction

This matter dealt with an application by the Tenants to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 21, 2011. The Landlords applied for a Monetary Order for unpaid rent and to recover the filing fee for this proceeding.

The Landlords said they served the Tenants in person on April 7, 2011 with their Application and Notice of Hearing (the "hearing package"). Based on the evidence of the Landlords I find that the Tenants were served with the Landlords' hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants' absence. The Landlords also said the tenancy ended on April 4, 2011 when the Tenants moved out.

Given the Landlords' evidence that the tenancy has ended and given that the Tenants did not attend the hearing to pursue their application, the Tenants' application to cancel the 10 Day Notice is dismissed without leave to reapply.

Issue(s) to be Decided

1. Are there rent arrears and if so, how much?

Background and Evidence

This tenancy started on January 22, 2011 and ended on April 4, 2011 when the Tenants moved out. Rent was \$1,150.00 per month payable in advance on the 1st day of each month. The Landlords said that when the Tenants moved in they paid pro-rated rent of \$200.00 for January 2011 and gave the Landlords 2 cheques post-dated for February 1, 2011; one cheque in the amount of \$1,150.00 was for February 2011 rent and one cheque in the amount of \$575.00 was for a security deposit. The Landlords said those cheques were returned for non-sufficient funds.

The Landlords said the Tenants gave them a number of excuses for delaying paying the rent for February and March 2011 and as a result, on March 21, 2011 the Landlords served the Tenants in person with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 21, 2011. The Landlords said they agreed that the Tenants could stay until April 4, 2011 provided they paid pro-rated rent for those days as well. The

Landlords said that the Tenants made payments of \$200.00 on February 26, 2011, of \$400.00 on March 12, 2011 and of \$30.00 on March 28, 2011 for a total of \$630.00.

Analysis

In the absence of any evidence from the Tenants to the contrary, I find that there are rent arrears totalling \$1,823.33 as follows:

February 2011 Rent:	\$1,150.00
March 2011 Rent:	\$1,150.00
April 1-4, 2011 Rent:	<u>\$153.33</u>
Subtotal:	\$2,453.33
Less: Payments:	<u>(\$630.00)</u>
Total Unpaid Rent:	\$1,823.33

As the Landlords have been successful in this matter, I find that they are also entitled pursuant to s. 72(1) of the Act to recover from the Tenants the \$50.00 filing fee for this proceeding.

Conclusion

The Tenants' application is dismissed without leave to reapply. A Monetary Order in the amount of **\$1,873.33** has been issued to the Landlords and a copy of it must be served on the Tenants. If the amount is not paid by the Tenants, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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 14, 2011.

Residential Tenancy Branch