



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR; MNR; FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

It was established that the Landlord served each of the Tenants with the Notice of Hearing documents, in person on June 9, 2011.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

On May 25, 2011, the Landlord issued a 10 Day Notice to End Tenancy (the "Notice") for unpaid rent in the amount of \$475.00. The Landlord posted the Notice on the Tenants' door on May 25, 2011. The Tenants did not dispute the Notice.

The Tenants paid rent in full for the month of June, 2011, but remained in arrears of \$475.00 for partial rent paid in February and March, 2011. The Landlord issued a receipt for "use and occupancy only" for the month of June, 2011, and posted it to the Tenants' door. The Tenants told the Landlord that they didn't get the receipt and the Landlord offered to write another receipt for "use and occupancy only" and explained that she was not reinstating the tenancy. The Tenants told the Landlord that they did not require another receipt. During the Hearing, the Tenant testified that the Tenants

understood and accepted that the June rent was for use and occupancy only. The Tenants remain in the rental unit.

Analysis

I accept that the Landlord served the Tenant with the Notice to End Tenancy by posting the Notice on the Tenants' door on May 25, 2011. Pursuant to the provisions of Section 90 of the Act, service in this manner is deemed to be effected three days after posting the documents. The Tenants did not pay the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to Section 46(5) of the Act, the Tenants are conclusively presumed to have accepted that the tenancy ended on June 7, 2011. The Tenants paid for use and occupancy of the rental unit for the month of June, 2011, and therefore the Landlord is entitled to an Order of Possession **effective 2 days after service of the order upon the Tenants.**

Based on the testimony of both parties, the Landlord has established a monetary award for unpaid rent the months of February and March, 2011, in the total amount of \$475.00. The Tenants paid a security deposit in the amount of \$425.00 and a pet damage deposit in the amount of \$50.00 at the beginning of the tenancy.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security and pet damage deposits in full satisfaction of the Landlord's monetary award.

The Landlord has been successful in her application and is entitled to recover the cost of the \$50.00 filing fee from the Tenants.

Conclusion

I hereby grant the Landlord an Order of Possession effective **2 days after service of the Order upon the Tenants**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord may deduct their monetary award for unpaid rent from the security and pet deposits in full satisfaction of their monetary award, leaving a balance of nil remaining in the security and pet damage deposits.

I hereby grant the Landlord a Monetary Order in the amount of **\$50.00**, representing recovery of the cost of the filing fee, for service upon the Tenants. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: June 29, 2011.

Residential Tenancy Branch