



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent, a monetary order for unpaid rent, to keep all or part of the security deposit, money owed or compensation for damage or loss and recovery of the filing fee. The landlord participated in the conference call hearing but the tenants did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing by registered mail aaaaa & bbbbbb. I found that the tenants had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

This tenancy began April 1, 2011 with monthly rent of \$1500.00, the tenants paid a security deposit of \$750.00 and a pet damage deposit of \$750.00. On May 19, 2011 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent. The tenant has not paid the outstanding rent and did not file an application to dispute the Notice.

The landlord testified that the tenants made a rent payment of \$1500.00 on May 31 and a \$600.00 rent payment on June 17 but still owe the landlord \$900.00 in unpaid rent for June. The landlord stated that she provided the tenants with a receipt stating *'for use and occupancy only'* for both rent payments.

The landlord stated that the tenant has moved additional people into the rental unit, smokes in the rental unit which is a breach of the tenancy agreement and has brought pet rabbits into the unit without permission from the landlord.

The landlord stated that there have continually been issues with the tenants paying rent on time or in full with claims that the tenants have the rent money but then does not pay the landlord.

As the tenants still occupy the rental unit the landlord is seeking an order of possession effective 2 days after service upon the tenants.

The landlord is also seeking \$900.00 compensation for the unpaid rent and has requested to recover this amount through the deposits being held by the landlord.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord I find that the tenant was properly served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession and a monetary order for unpaid rent.

While the tenant has paid some of the rent owed to the landlord there is still an amount of \$900.00 outstanding and the landlord has issued receipts to the tenant in order to not reinstate the tenancy.

Accordingly I find that the landlord is entitled to a monetary order for \$900.00 for unpaid rent.

The landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I hereby grant the landlord an **Order of Possession**, effective **2 days** after service of the Order upon the tenants. This Order must be served on the tenants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$900.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep the tenant's \$750.00 security deposit and \$150.00 of the tenant's \$750.00 pet damage deposit in full satisfaction of the claim.

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 21, 2011.

Residential Tenancy Branch