



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNR, MNSD, OPR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. All parties were represented at the conference call hearing.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Background and Evidence

The tenancy began on or about May 1, 2010 at which time an \$850.00 security deposit was paid. Rent in the amount of \$1,700.00 is payable in advance on the first day of each month. The tenants failed to pay rent in the month of May and on May 25 the landlord served the tenants with a notice to end tenancy. The tenants further failed to pay rent in the month of June.

The tenants claimed that the landlord verbally advised them in April that they would have to move out at the end of April because he wanted his family member to move in. Because the tenants believed that they were entitled to a free month's rent in compensation, they did not pay rent for the month of May.

Analysis

The Act provides that tenants are entitled to compensation equivalent to one month's rent when they have been served with a written notice to end tenancy pursuant to section 49 of the Act. The tenants were not served with such a notice and I find that they had no basis to believe that their tenancy was ending pursuant to such a notice. I find that they had no legal basis to withhold their rent.

I find that the tenants were served with a notice to end tenancy for non-payment of rent. The tenants 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 are 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.

The tenants must be served with the order of possession. 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.

As for the monetary order, I find that the tenants failed to pay rent in the month of May and that their overholding caused the landlord to lose income for the month of June. I find that the landlord is entitled to recover \$3,400.00 for these losses as well as the \$50.00 filing fee paid to bring his application. I order that the landlord retain the \$850.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,600.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary order for \$2,600.00. The landlord may retain the security deposit.

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 27, 2011

Residential Tenancy Branch