



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This conference call hearing was convened in response to the landlords' application for an Order of Possession for unpaid rent or utilities; a Monetary Order for unpaid rent or utilities; to keep the security and pet damage deposits; and to recover the filing fee associated with this application.

The landlords participated in the hearing and provided affirmed testimony. They testified that they served the Notice of a Dispute Resolution Hearing to the tenant by way of registered mail; they provided a tracking number and confirmation that the notice had been successful delivered. The tenant did not participate and the hearing proceeded in the tenant's absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to keep all or part of the security deposit?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of a house duplex. The tenancy started as a fixed term on October 1, 2009 and continued month to month to this date. The landlords provided a copy of the latest written agreement dated October 1st, 2010. \$700.00 was payable on the first and the 15th of each month for a combined rent of \$1400.00 per month. The tenant paid a security deposit of \$600.00 and a pet damage deposit of 150.00.

The landlords testified that the tenant has been given ample chances to catch up with her arrears; they said that the tenant has failed to pay all her utilities starting in January 2010. Concerning unpaid rent, the landlords stated that the tenant paid \$200.00 since the filing of their application; however they said that they received an electronic email from the tenant on August 25th, 2011 that the \$700.00 cheque that she gave for the second half of that month would bounce.

In their documentary evidence, the landlords provided copies of the unpaid utility invoices in support of their monetary claim which they updated as follows:

- Unpaid utilities for January 2010: \$ 148.03
- Unpaid utilities for April 2010: \$ 756.30
- Unpaid utilities for August 2011: \$ 517.15
- Unpaid rent for August 2011: \$ 700.00
- Total: \$2121.48

The landlords provided a copy of the 10 Day Notice to End Tenancy served on the tenant, with proof of service that it was served in person on July 9th, 2011.

Analysis

I accept the landlords' undisputed testimony that they served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential*

Tenancy Act. I find that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a notice to end tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenant in this matter has not filed an application for dispute resolution; therefore the landlords are entitled to an order of possession.

Based on the landlords' documentary and oral evidence, I accept that the tenant owes unpaid rent and utilities; the landlords are entitled to a monetary order as claimed.

Conclusion

I grant the landlords an Order of Possession effective two days from the date the order is served upon the tenant.

This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlords established a claim of \$2121.48. I authorize the landlords to retain the tenant's combined \$750.00 for security and pet damage deposits, for a balance owing of \$. Since the landlords were successful, I award the landlords recovery of the \$50.00 filing fee.

Pursuant to Section 67 of the Act, I grant the landlords a Monetary Order totalling \$1421.48.

This Order may be registered in the Small Claims Court 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: August 29, 2011.

Residential Tenancy Branch