



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter dealt with an application by the Landlords for an Order of Possession and a Monetary Order for unpaid rent and utilities as well as to recover the filing fee for this proceeding.

The Landlords filed their application on August 8, 2011 and served the Tenant with the hearing package (containing the Application and Notice of Hearing) by registered mail on August 17, 2011. ***Section 59 of the Act says that an Applicant must serve her application on the other party no later than 3 days after filing it.*** The Landlord (D.C.) claimed that the Government Agent office which received the hearing packages from the Residential Tenancy Branch on her behalf lost them and did not advise her until August 17, 2011 that they had located them. Based on this evidence, I find that the Tenant has been sufficiently served with the Landlords' hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issue(s) to be Decided

1. Are there grounds to end the tenancy?
2. Are there rent and utility arrears and if so, how much?

Background and Evidence

This month-to-month tenancy started approximately 2 years ago. There is no written tenancy agreement. Rent is \$550.00 payable in advance on the 1st day of each month. The Landlord (D.C.) said the Tenant is also responsible for the municipal utility bill for the rental property which is in her name.

The Landlord (D.C.) said the Tenant did not pay rent for July 2011 when it was due and as a result, on or about July 21, 2011 she served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated July 21, 2011. The Landlords' agent said the Notice was initially posted on the rental unit door then subsequently removed and handed to the Tenant. The Landlord said the Tenant moved out during the 2nd week of August but did not remove all of his belongings until the last week of August, 2011. The Landlord also said the Tenant has not paid rent for July and August and

utilities (or a water bill) of \$96.61. The Landlord further said that she incurred bank expenses of \$21.00 as a result of three NSF cheques given to her by the Tenant.

Analysis

I find that the tenancy ended when the Tenant moved out at the end of August, 2011 and as a result, the Landlords' application for an Order of Possession is dismissed without leave to reapply.

In the absence of any evidence from the Tenant to the contrary, I find that the Landlords are entitled to recover unpaid rent of \$550.00 for July 2011. However, the Landlords' application did not include a claim for August 2011 rent and as a result, they will have to make a separate application to recover any unpaid rent for that month. The Landlords also failed to provide any evidence in support of their claims for unpaid utilities and bank charges and as a result, those parts of their application are also dismissed with leave to reapply. The Landlords are entitled pursuant to s. 72(1) of the Act to recover the \$50.00 filing fee they paid for this proceeding.

Conclusion

The Landlords' application for an Order of Possession is dismissed without leave to reapply. The Landlords' application(s) for unpaid utilities and bank charges are dismissed with leave to reapply. A Monetary Order in the amount of \$600.00 has been issued to the Landlords and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, 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: September 12, 2011.

Residential Tenancy Branch