



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 for Dispute Resolution by the landlord for an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord and both tenants.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agree they are in a month to month tenancy that began on February 1, 1997 for the current monthly rent of \$1,094.00 due on the 1st of each month and a security deposit of \$500.00 was paid.

The landlord submitted into evidence a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on August 2, 2011 with an effective vacancy date of August 12, 2011 due to \$1,094.00 in unpaid rent.

The parties agree the tenants failed to pay the full rent owed for the months of August, September and October 2011 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent personally on August, 2011.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. For reasons beyond their control, the tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

I accept the tenant's testimony that they have failed to pay rent for the months of August, September and October 2011. The notice was received by the the effective date of the notice was August 12, 2011. I accept the evidence before me that the tenants failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenants are conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice. The landlord agreed with the tenant's request to let them stay until October 31, 2011.

Conclusion

I find the landlord is entitled to an order of possession effective **October 31, 2011 after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$3,332.00** comprised of \$3,282.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$565.79 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$2,766.21**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: October 17, 2011.

Residential Tenancy Branch