



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, a monetary order and to recover the filing fee.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on September 23, 2011, neither tenant appeared. The landlord testified that each tenant was served via registered mail to the address at which the tenants reside, provided the tracking number for each registered mail envelope and successfully demonstrated sufficient delivery of the documents under Section 89 of the Residential Tenancy Act (the "Act"). The male tenant was additionally served personally with the Notice of Hearing as well as the documents being posted on the door. Thus the hearing proceeded in the tenants' absence.

The landlord's agent appeared, gave affirmed testimony and was provided the opportunity to present her evidence orally and in documentary form prior to the hearing, and make submissions to me.

Issue(s) to be Decided

Have the tenants breached the Residential Tenancy Act or tenancy agreement, entitling the landlord to an Order of Possession and monetary relief?

Background and Evidence

The landlord testified that this six month, fixed term tenancy began on July 1, 2011, monthly rent is \$1,200.00, and a security deposit of \$600.00 was paid by the tenants on or about June 24, 2011.

The landlord gave affirmed testimony and supplied evidence that the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") listing unpaid rent of \$2,700.00 on September 15, 2011, by personal delivery. The effective vacancy date listed on the Notice was September 25, 2011.

The Notice informed the tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the tenants had five days to dispute the Notice.

I have no evidence before me that the tenants applied to dispute the Notice. The landlord provided evidence and gave affirmed testimony that the tenants have not made any rent payments since issuance of the Notice and currently owe unpaid rent of \$3,900.00 through the date of the hearing.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

The tenants have not paid the outstanding rent and did not apply to dispute the Notice and are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlord is entitled to an order of possession effective **two days** after service on the tenants.

I am enclosing an order of possession with the landlord's Decision. This order is a **legally binding, final order**, and may be filed in the Supreme Court of British Columbia should the tenants fail to comply with this order of possession.

I find that the landlord has established a total monetary claim of **\$3,950.00** comprised of outstanding rent of **\$3,900.00** and the **\$50.00** filing fee paid by the landlord for this application.

At the landlord's request, I allow the landlord to retain the tenants' security deposit of **\$600.00** in partial satisfaction of the claim and I grant the landlord a monetary order under authority of section 67 of the Act for the balance due of **\$3,350.00**.

I am enclosing a monetary order for **\$3,350.00** with the landlord's Decision. This order is a **final, legally binding order**, and may be filed in the Provincial Court of British Columbia (Small Claims) should the tenants fail to comply with this monetary order.

Conclusion

The landlord is granted an Order of Possession, may keep the tenants' security deposit in partial satisfaction of the claim and is granted a monetary order for **\$3,350.00**.

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 20, 2011.

Residential Tenancy Branch