



Dispute Resolution Services

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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 landlords for an order of possession, a monetary order and to recover the filing fee.

The parties appeared and the hearing process was explained. Thereafter the parties gave affirmed testimony and were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, respond each to the other and make submissions to me.

Issue(s) to be Decided

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

Background and Evidence

The landlord testified that this month to month tenancy began on October 1, 2010, monthly rent is \$775.00, and a security deposit of \$387.50 was paid by the tenants on or about September 22, 2010.

The landlord gave affirmed testimony and supplied evidence that on September 10, 2011, the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) listing unpaid rent of \$775.00, by posting on the door. The effective vacancy date listed on the Notice was September 20, 2011. Section 90 of the Act states that documents delivered in this manner are deemed served three days later. Thus the effective move out date has been changed to September 23, 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 made smaller payments of rent throughout September and finally caught up with the September rent on October 8, 2011. The landlord testified that the tenants paid \$75.00 towards the October rent and as of the day of the hearing, the tenants owed unpaid rent of \$700.00 through the end of October 2011.

The tenant agreed with the statements of the landlord.

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 **\$750.00** comprised of outstanding rent of **\$700.00** through October 31, 2011, and the **\$50.00** filing fee paid by the landlords for this application.

I grant the landlord a monetary order under authority of section 67 of the Act for the amount of **\$750.00**.

I am enclosing a monetary order for **\$750.00** with the landlords' 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 landlords are granted an Order of Possession and are granted a monetary order for **\$750.00.**

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: November 01, 2011.

Residential Tenancy Branch