



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, 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 November 7, 2011, neither tenant appeared. The landlord provided the tracking numbers for the registered mail receipts the tenants, testified that the mail was sent to the address at which the tenants resided and successfully demonstrated sufficient delivery of the documents under Section 89 of the Residential Tenancy Act (the "Act"). Thus the hearing proceeded in the tenants' absence.

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

The landlord advised at the outset of the hearing that the tenants vacated the rental unit and the landlord no longer required an Order of Possession. As a result, I have amended her Application to exclude a request for such order.

Issue(s) to be Decided

Have the tenants breached the Residential Tenancy Act or tenancy agreement, entitling the Landlord to an Order for monetary relief and to recover the filing fee?

Background and Evidence

This one year, fixed term tenancy began on July 1, 2007, continued thereafter on a month to month basis until it ended sometime in November 2011, when the tenants vacated the rental unit. Monthly rent started at \$1,275.00 and increased to \$1,355.00 by the end of the tenancy and a security deposit of \$637.50 was paid by the tenants at the beginning of the tenancy.

The landlord gave affirmed testimony and supplied evidence that the tenants were served with a 1 Notice Notice to End Tenancy for Cause (the "Notice") on October 4, 2011, by registered mail. The tenants filed an application for dispute resolution thereafter, but requested that their application be withdrawn at the hearing, where they stated they were vacating the rental unit.

The landlord testified that sometime in November, the tenants vacated the rental unit, without notice to her, having failed to pay rent.

As a result of the insufficient notice, the landlord testified that she lost rent for the month of November 2011, and is seeking compensation for unpaid rent in the amount of \$1,355.00, plus recovery of the filing fee.

Analysis

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

Section 45 (1) of the Residential Tenancy Act requires a tenant to give notice to end the tenancy that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

I am satisfied, based on the unopposed testimony of the landlord and evidence, that the tenants vacated the rental unit, without notice and without paying rent, causing the landlord to incur a loss of rent for November 2011.

Conclusion

Therefore I find the landlord has established a monetary claim in the amount of **\$1,405.00**, comprised of loss of rent for November 2011, in the amount of \$1,355.00, and the filing fee of \$50.00.

At the landlord's request, I allow the landlord to retain the security deposit and interest of **\$651.96 (interest of \$14.46)** in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 of the Act for the balance due of **\$753.04**.

I am enclosing a monetary order for **\$753.04** 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.

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 23, 2011.

Residential Tenancy Branch