



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, 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 his agent. The tenants did not attend.

The landlord provided confirmation the tenants were served with notice of this hearing via registered mail on November 18, 2011. Based on this I find the tenants have been sufficiently served with notice of this hearing.

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 to recover the filing fee from the tenant 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 landlord testified the tenancy began on April 1, 2011 as a month to month tenancy for a monthly rent in the amount of \$725.00 due on the last day of each month and that a security deposit was paid.

The landlord submitted the following documentary evidence a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on September 19, 2011 with an effective vacancy date of September 29, 2011 due to \$750.00 in unpaid rent.

Documentary evidence and testimony provided by the landlord indicates the tenants failed to pay the full rent owed for the month of September 2011 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent personally on September 19, 2011.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days. The landlord testified the tenants

paid the September 2011 arrears on November 25, 2011 and that he provided the tenants with a receipt for use and occupancy only.

Analysis

I have reviewed all documentary evidence and testimony and accept that the tenants have been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on September 19, 2011 and the effective date of the notice was September 29, 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.

Conclusion

I find the landlord is entitled to an order of possession effective **two days 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 and I grant a monetary order in the amount of **\$50.00** comprised of the fee paid by the landlord for this Application.

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: December 01, 2011.

Residential Tenancy Branch