



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's agent only. The tenants did not attend.

While the landlord applied for a monetary order in the amount of \$1,235.00 the agent clarified the landlord only seeks compensation in the amount of \$1,185.00.00, plus the filing fee for this Application. I accept the landlord's amendment.

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 landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on January 20, 2010 for a 6 month fixed term tenancy beginning on February 1, 2010 that converted to a month to month tenancy on August 1, 2010 for the monthly rent of \$1,035.00 due on the 1st of each month and a security deposit of \$517.50 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on November 8, 2011 with an effective vacancy date of November 18, 2011 due to \$1235.00 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 November 2011 including late charges for several months and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on November 8, 2011 at 3:00 p.m. and that this service was witnessed by a third party.

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.

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 November 11, 2011 and the effective date of the notice is amended to November 21, 2011, pursuant to Section 53 of the *Act*. 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 in the amount of **\$1,235.00** comprised of \$1,185.00 rent and late charges 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 \$517.50 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$717.50**.

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