



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

The landlord participated in the hearing and provided affirmed testimony. He testified that he served the Notice of a Dispute Resolution Hearing to the tenants in person and in the presence of a police officer on January 1st, 2012. The tenants did not participate and the hearing proceeded in the tenants' absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to keep all or part of the security deposit?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of the upper level of a single detached home. Pursuant to a written agreement, the fixed term tenancy started on November 20th, 2011 and was to end March 20th, 2012. The rent is \$1300.00 per month payable on the 20th of each month, and the tenants paid a security deposit of \$650.00.

The landlord testified that the tenants did not pay rent for the month of December 2011. He stated that he served the tenants in person with a 10 Day Notice to End Tenancy on December 22nd, 2011, and provided a copy of the notice as part of his documentary evidence. He stated that the tenants continue to occupy the rental unit to date.

The landlord submitted a claim of \$1300.00 for unpaid rent in December 2011.

Analysis

I accept the landlord's undisputed testimony that he served the tenants with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the tenants knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a notice to end tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenants in this matter have not filed an application for dispute resolution. The landlord's Notice to End Tenancy is valid and on that basis the landlord is entitled to an order of possession.

I also accept on the evidence that the tenants have not paid rent for December 2011 and that the landlord is entitled to a monetary as claimed.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant.

This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord established a claim of \$1300.00. I authorize the landlord to retain the tenants' \$650.00 security deposit for a balance owing of \$650.00. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 67 of the Act, I grant the landlord a Monetary Order totalling \$700.00.

This Order may be registered in the Small Claims Court and 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: January 16, 2012.

Residential Tenancy Branch