



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord only, the tenants did not attend

The landlord testified he served the tenants with the notice of hearing documents and his Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on March 9, 2012 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenants on the 5th day after it was mailed.

The landlord also testified that they share a mail box with the tenants and he saw the registered mail cards in the mailbox on March 10, 2012 and they were gone the following day. Based on the testimony of the landlord, I find that the tenants have been sufficiently served with the documents pursuant to the *Act*.

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 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 in September 2010 on a month to month basis for the monthly rent amount of \$800.00 due on the 1st of each month with a security deposit of \$450.00 paid.

The landlord submitted a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on February 14, 2012 with an effective vacancy date of February 25, 2012 due to \$800.00 in unpaid rent.

Testimony provided by the landlord indicates the tenants failed to pay the full rent owed for the months of January, February and March 2012 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent, by posting it on the rental unit door on February 14, 2012.

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 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 February 17, 2012 and the effective date of the notice is amended to February 27, 2012. 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 **\$2,450.00** comprised of \$2,400.00 rent 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 \$450.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$2,000.00**. 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: March 30, 2012.

Residential Tenancy Branch