



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent, a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee.

The landlord participated in the conference call hearing but the tenants did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing in person. I found that the tenants had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

This tenancy began October 1, 2011 with monthly rent of \$950.00 and the tenants paid a security deposit of \$475.00.

On January 9, 2012 the landlord served the tenants with a 1 Month Notice to End Tenancy for Cause; the tenants have not filed to dispute this notice.

- The tenants have allowed an unreasonable number of occupants in the unit/site.
- The tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord.

On February 3, 2012 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent; the tenants have not filed to dispute this notice.

The landlord testified that the tenants have both vacated the rental unit as of March 1, 2012 however the February 2012 rent remains unpaid. The landlord stated that the tenants have left the rental unit very dirty, full of trash and left a dirt bike and tv behind.

The landlord stated that the female tenant had signed over the \$475.00 security deposit to the landlord to cover some of the cleaning costs.

As the tenants have vacated and the landlord has possession of the rental unit the landlord no longer requires an order of possession therefore this portion of the landlord's application is hereby dismissed.

The landlord is seeking a monetary order in the amount of \$950.00 for the unpaid February 2012 rent.

Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

I find that the tenants have conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice and I find that the landlord is entitled to a monetary order for unpaid rent.

Accordingly I find that the landlord is entitled to a monetary order for \$950.00.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I find that the landlord has established a monetary claim for \$950.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord a monetary order under section 67 for the amount of **\$1000.00**.

If the amount is not paid by the tenant(s), the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: March 14, 2012

Residential Tenancy Branch