



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 face to face hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent; to keep the security deposit; and to recover the filing fee associated with this application.

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 by way of registered mail sent on March 31, 2012, and provided a Canada Post tracking number. 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 an apartment in a multi-unit complex. The tenancy started in May 2011. The rent is \$791.00 per month and the tenants paid a security deposit of \$395.50.

The landlord testified that the tenants wrote a cheque for March 1st, 2012, however the tenants closed the account and the cheque could not be endorsed. The landlord said that the tenants told the onsite property manager that they would pay rent by the end of the week however they did not pay the outstanding amount; the landlord said that he has not been able to contact the tenants since.

In his documentary evidence, the landlord provided a copy of the 10 Day Notice to End Tenancy served on the tenant on March 3rd, 2012 by posting the notice on the tenant's door.

The landlord submitted a claim for the loss of rental income for March 2012.

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 the landlord's evidence that the tenants did not pay rent for March 2012 and find that the landlord is entitled to recover the loss of that month's rent.

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 \$791.00. I authorize the landlord to retain the tenants' \$395.50 security deposit for a balance owing of \$395.50. 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 \$445.50.

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: April 17, 2012.

Residential Tenancy Branch