



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 concerned the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / retention of the security deposit / and recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony. Despite in-person service on March 30, 2012 of the application for dispute resolution and notice of hearing on tenant "MAB," the tenants did not appear.

Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on November 15, 2011. Monthly rent of \$1,200.00 is payable in advance on the first day of each month, and a security deposit of \$600.00 was collected. Four separate 10 day notices to end tenancy for unpaid rent or utilities have been issued, respectively, by dates of December 5, 2011, January 5, 2012, February 7, 2012 and, most recently, March 6, 2012. Copies of all notices have been submitted in evidence.

The most recent notice of March 6, 2012, was served by posting on the tenants' door on that same date. The notice documents that rent in the amount of \$1,825.00 remained unpaid on March 1, 2012. Thereafter, the tenants made payment on March 30, 2012 in the limited amount of \$1,600.00, leaving an unpaid balance of \$225.00 (\$1,825.00 - \$1,600.00). Subsequently, the tenants have made no further payment toward rent, and \$1,200.00 is now also overdue for April 2012. The tenants continue to reside in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated March 6, 2012. The tenants did not pay all of the outstanding rent

within 5 days of receiving the notice, and did not apply to dispute the notice. The tenants are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an order of possession.

As for the monetary order, I find that the landlord has established a claim of \$1,475.00, which is comprised as follows:

\$225.00: balance of outstanding rent after limited payment on March 30, 2012
(\$1,825.00 - \$1,600.00)

\$1,200.00: unpaid rent due April 1, 2012

\$50.00: filing fee

I order that the landlord retain the security deposit of \$600.00, and I grant the landlord a monetary order for the balance owed of \$875.00 (\$1,475.00 - \$600.00).

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than two (2) days after service on the tenants. This order must be served on the tenants. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of \$875.00. Should it be necessary, this order may be served on the tenants, filed 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 18, 2012.

Residential Tenancy Branch