



Dispute Resolution Services

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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 under the *Residential Tenancy Act* (the "Act"), seeking an order of possession for unpaid rent or utilities; a monetary order for unpaid rent or utilities, to keep all or part of security deposit, for money or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee.

The agents for the landlord appeared by conference call and gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

As the tenants did not attend the hearing, service of the Notices of a Dispute Resolution Hearing was considered. The agents for the landlord provided affirmed testimony that the Notices of a Dispute Resolution Hearing were served on the tenants by registered mail on May 24, 2012. The landlord also provided registered mail receipts as documentary evidence prior to the hearing.

Preliminary Matter

The agents for the landlord testified that although the application was submitted on May 22, 2012, and included June 2012 rent, the tenants have not paid any money towards June 2012 rent. The agents for the landlord stated that the tenants continue to occupy the rental unit and submit the landlord suffered a loss of June 2012 rent as a result. The agents confirmed that the application submitted accurately reflects the amount owing for rent for the months of May and June 2012.

Issue(s) to be Decided

- Should the landlord be granted an order of possession?
- Should the landlord be granted a monetary order?
- Should the landlord recover the filing fee?

Background and Evidence

The landlord provided a copy of the signed tenancy agreement as evidence. The tenancy agreement shows a fixed term tenancy which began on March 1, 2012, and was scheduled to end on August 31, 2012. According to the testimony provided and the written tenancy agreement, rent in the amount of \$710.00 was due on the first day of each month. A security deposit of \$355.00 was received from the tenants.

The agents for the landlord testified that the tenants were served with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") by posting to the door on May 2, 2012 with an effective date of May 15, 2012. The agents for the landlord stated that the tenants did not dispute the Notice.

The agents for the landlord testified that no rent has been paid for the months of May and June 2012, for a total of \$1,420.00 in unpaid rent. The agents stated that the tenants continue to occupy the rental unit.

The agents for the landlord provided a copy of the written tenancy agreement; the Notice; proof of service; and a registered mail receipt as evidence.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of Possession - The tenants failed to pay the rent or dispute the Notice within 5 days after receiving the Notice. Therefore, the tenants are conclusively presumed under section 46 of the *Act* to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I grant the landlord's request for an order of possession.

Claim for unpaid rent - The landlord claims for unpaid rent of \$1,420.00 as described above. Pursuant to section 26 of the *Act* the tenants must pay rent when it is due in accordance with the tenancy agreement.

Based on the above, I find that the tenants have failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month. I find the landlord has met the burden of proof and I award them a monetary claim of \$1,420.00 for rent owed.

The landlord has succeeded with their application; therefore I award recovery of the \$50.00 filing fee. The total monetary amount of **\$1,470.00** is comprised of \$1,420.00 in unpaid rent and recovery of the \$50.00 filing fee.

Conclusion

I find that the landlord is entitled to an order of possession effective **two days** after service upon the tenants. This order must be served on the tenants and may be enforced in the Supreme Court of British Columbia.

I find that the landlord has established a total monetary claim of **\$1,470.00**. I order that the landlord retain the security deposit and interest of \$355.00 in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$1,115.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: June 13, 2012

Residential Tenancy Branch