



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of Possession for Unpaid Rent and utilities, a monetary Order for unpaid rent and compensation for damage or loss, to retain all or part of the security deposit, and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Is the landlord entitled to a monetary Order for unpaid rent and utilities?

May the landlord retain the deposit paid by the tenants?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced on May 1, 2012, rent is \$1,400.00 due on the first day of each month.

The tenancy agreement supplied as evidence indicated that a deposit in the sum of \$700.00 was paid on May 21, 2012. However, the amount of deposit paid is in dispute. The landlord testified the tenants paid \$400.00 and the tenants stated they paid \$400.00 and then made an additional \$200.00 cash payment; a receipt was not issued.

The landlord stated that on June 4, 2012, a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of June 14, 2012, was personally served to the female tenant. The landlord's witness confirmed service and the discussion that occurred at the time.

The tenants denied receipt of the Notice ending tenancy; they also did not receive a copy as part of the hearing package.

The tenants confirmed they have not paid June or July rent, in the sum of \$2,800.00

The landlord claimed compensation for unpaid utilities; however, the utility costs are in the name of the tenants. No verification of a loss by the landlord was supplied as evidence.

Mutual Agreement – End of Tenancy

During the hearing, after some discussion in relation to a possible vacancy date, the female tenant agreed to provide vacant possession of the home to the landlord effective 1 p.m. on July 15, 2012.

The parties agreed that the landlord would receive an Order of possession for July 15, 2012, at 1 p.m., which may be enforced should vacant possession not be provided to the landlord.

Based on the mutual agreement of the parties; I Order the tenants, pursuant to section 63(2) of the Act, to vacate the rental unit no later than July 15, 2012, at 1 p.m.

Analysis – Monetary Claim

Based on acknowledgement of the tenants, I find that the tenants have not paid rent in the amount of \$2,800.00 for June and July, 2012, and that the landlord is entitled to compensation in that amount.

The claim for unpaid utilities is dismissed with leave to reapply; I find the application for these costs was premature. If the landlord suffers a loss as a result of the tenant's failure to pay the utilities, the landlord may reapply requesting compensation.

In relation to the deposit paid, I find, on the balance of probabilities, given the contradictory information provided in the tenancy agreement and the testimony, that the landlord has received a \$600.00 deposit, which may be retained in partial satisfaction of the claim for unpaid rent.

I find that the landlord's application has merit and that the landlord is entitled to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

Conclusion

Based on the mutual agreement of the parties the landlord has been granted an Order of Possession that is effective no earlier than 1 p.m. on July 15, 2012. This Order may be served on the tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim, in the amount of \$2,850.00, which is comprised of unpaid June and July, 2012, rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

The landlord will be retaining the tenant's security deposit in the amount of \$600.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the landlord a monetary Order for the balance of **\$2,250.00**. In the event that the tenants do not comply with this Order, it may be served on the tenants, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The landlord has leave to reapply for utility costs.

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: July 06, 2012.

Residential Tenancy Branch