



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC and FF

Introduction

This application was brought by the landlord on June 15, 2013 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by posting on the tenants' door on June 5, 2012. The landlord also sought a Monetary Order for unpaid rent, loss of rent, and recovery of the filing fee for this proceeding.

The landlord's application was subsequently amended to add the landlord's agent to the application.

Despite having been served with the Notice of Hearing in person by the landlord and subsequently by registered mail with an amended application from the landlord's agent on June 27, 2012, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their absence.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order as requested.

Background and Evidence

This tenancy began on or about April 1, 2012. Rent is \$850 per month and the landlord's agents gave evidence that the tenants had not paid the agreed to security deposit.

During the hearing, the landlord's agents gave evidence that the Notice to End Tenancy of June 3, 2012 had been served after the tenants carried a \$100 rent shortfall from May 2012 and had paid none of the rent for June 2012.

In the interim, the tenants have not given notice nor returned keys to the rental unit, and have not paid the rent for July 2012. Therefore, the landlord has requested that rent and loss of rent for July 2012 be added to the monetary claim.

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due.

Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenants did not pay the rent within five days of receiving the notice and did not make application to dispute it.

Therefore, under section 46(5) of the *Act*, the tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy which was June 18, 2012.

Accordingly, I find that the landlord is entitled to an Order of Possession to take effect two days from service of it on the tenants.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent, including the rent/loss of rent for July 2012. As the application has succeeded on its merits, I find that the landlord is entitled to recover the filing fee for this proceeding from the tenants. Thus, I find that the tenants owe to the landlord an amount calculated as follows:

Rent for May 2012	\$ 100.00
Rent/loss of rent for July 2012	850.00
Filing fee	<u>50.00</u>
TOTAL	\$1,850.00

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect two days from service.

In addition, the landlord's copy of this decision is accompanied by a Monetary Order for **\$1,850.00**, enforceable through the Provincial Court of British Columbia, for service on the tenants.

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: July 09, 2012.

Residential Tenancy Branch