



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and to recover the filing fee.

The tenants did not appear at the telephone conference call hearing. The landlord appeared and gave affirmed testimony.

The landlord testified that she served the tenants with the Application for Dispute Resolution and Notice of Hearing (the Hearing Package) by personal delivery on July 15, 2012.

I find the tenants were served in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenants' absence.

The landlord was provided the opportunity to present her evidence orally via her translator and the opportunity to review evidence timely submitted prior to the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and to recover the filing fee?

Background and Evidence

This three month fixed term tenancy began on June 1, 2012, monthly rent is \$850.00, and a security deposit of \$425.00 was paid by the tenants at the beginning of the tenancy.

The landlord gave affirmed testimony and supplied evidence that on July 4, 2012, the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by posting on the door, listing unpaid rent of \$850.00 due on July 1, 2012. The effective vacancy date listed on the Notice was July 31, 2012.

The Notice informed the tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the tenants had five days to dispute the Notice.

I have no evidence before me that the tenants applied to dispute the Notice.

The landlord stated that the tenants failed to make any rent payments since issuance of the Notice and now owe for the month of August 2012, for a total of \$1700.00.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

I find the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or apply to dispute the Notice within five days of service and 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.

Conclusion

I find that the landlord is entitled to an order of possession effective two days after service of the order upon the tenants.

I grant the landlord a final, legally binding order of possession, which is enclosed with the landlord's Decision. Should the tenants fail to vacate the rental unit pursuant to the terms of the order, this order may be filed in the Supreme Court of British Columbia for enforcement.

I find that the landlord has established a total monetary claim of \$1750.00 comprised of outstanding rent of \$1700.00 through the date of the hearing, and the \$50.00 filing fee paid by the landlord for this application.

At the landlord's request, I allow the landlord to retain the tenants' security deposit of **\$425.00** in partial satisfaction of the claim.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$1325.00, which I have enclosed with the landlord's Decision.

Should the tenants fail to pay the landlord this amount without delay, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement.

Dated: August 02, 2012.

Residential Tenancy Branch