



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, OPB, MNR, FF / CNR, CNC

Introduction

This hearing concerns 2 applications: i) by the landlords for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee; ii) by the tenants for cancellation of a notice to end tenancy for unpaid rent / and cancellation of a notice to end tenancy for cause.

Issue(s) to be Decided

Whether either party 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 March 1, 2012. Monthly rent of \$1,000.00 is due and payable in advance on the first day of each month, and a security deposit of \$500.00 was collected.

The landlords issued a 1 month notice to end tenancy for cause dated July 31, 2012. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate the unit is August 31, 2012. Reasons shown on the notice for its issuance are as follows:

Tenant is repeatedly late paying rent

Tenant or a person permitted on the property by the tenant has:

- put the landlord's property at significant risk

On August 21, 2012, the tenants amended their application for dispute resolution filed on August 7, 2012, to include an application to have the notice to end tenancy for cause set aside.

Arising from rent which remained unpaid when due on August 1, 2012 in the amount of \$2,184.74 (\$582.37 for May & \$602.37 for June & \$1,000.00 for August), the landlords issued a 10 day notice to end tenancy for unpaid rent dated August 2, 2012. The notice was served in-person on that same date. A copy of the notice was submitted in evidence. On August 7, 2012, the tenants filed an application to dispute the 10 day notice.

Prior to filing their application to dispute the 10 day notice, on August 3, 2012 the tenants made a payment toward rent in the limited amount of \$1,000.00. In exchange for this payment the landlords issued a receipt with the notation: "for use and occupancy only." At that stage the balance of unpaid rent was \$1,184.74. Rent in the full amount of \$1,000.00 has been paid for September.

The tenants do not dispute that rent currently remains overdue in the amount of \$1,184.74. Further, the tenants do not dispute that payment of rent in full has been late for each of the months of May, June, July & August 2012.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the documentary evidence and testimony of the parties, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated August 2, 2012. While the tenants filed an application to dispute the notice within 5 days following its receipt, they did not pay the full amount of rent overdue within 5 days of receiving the notice. Accordingly, I find that the landlords have established entitlement to an order of possession. Having made this finding, I find that there is no need for consideration to be given to an order of possession in relation to the 1 month notice to end tenancy for cause dated July 31, 2012.

As for the monetary order, I find that the landlords have established entitlement to a claim of \$1,234.74, which is comprised as follows:

\$1,184.74: *unpaid rent as set out above*
\$50.00: *filing fee*

In relation to the disposition of the security deposit at the end of tenancy, the attention of the parties is drawn to section 38 of the Act which speaks to **Return of security deposit and pet damage deposit**.

Conclusion

The tenants' application is hereby dismissed.

I hereby issue an **order of possession** in favour of the landlords 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 landlords in the amount of **\$1,234.74**. 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: September 07, 2012.

Residential Tenancy Branch