



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR and FF

Introduction

This application was brought by the landlord on November 8, 2012 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by posting and in person on November 2, 2012. The landlord also sought a Monetary Order for unpaid rent and recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing in person on November 8, 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 a an Order of Possession and monetary award as requested.

Background and Evidence

This tenancy began on October 1, 2012. Rent is \$640 per month and the security deposit was not paid.

As the commencement of the hearing, the landlord advised that he served the Notice to End Tenancy of November 2, 2012 after the tenants had failed to pay the rent due on November 1, 2012 and October 1, 2012.

In the interim, the tenants remain in the rental unit, the previous rent remains unpaid and the tenants have not paid the rent due on December 1, 2012.

Therefore, the landlord requests an Order of Possession and a Monetary Order for the unpaid rent and filing fee.

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 tenants 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 November 12, 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 and filing fee for this proceeding calculated as follows:

Rent for October 2012	\$ 640.00
Rent for December 2012	640.00
Filing fee	<u>50.00</u>
TOTAL	\$1,970.00

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 of it on the tenants.

The landlord's copy of this decision is also accompanied by a Monetary Order for **\$1,970.00**, 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: December 11, 2012.

Residential Tenancy Branch