



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lighthouse Realty Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. Agents representing the landlord attended the hearing and gave affirmed testimony. Despite service of the application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail, the tenants did not appear. Evidence submitted by the landlord includes the Canada Post tracking numbers for the registered mail.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the tenancy began on August 18, 2012. Monthly rent of \$700.00 is due and payable in advance on the first day of each month, and a security deposit of \$350.00 was collected.

Arising from rent which was unpaid when due on January 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated January 12, 2013. A copy of the notice was submitted in evidence. The notice was served by way of posting on the tenants' door on that same date. Subsequently, the tenants have made no further payment toward rent and they continue to reside in the unit.

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 the affirmed / undisputed testimony of the landlord's agents, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated January 12, 2013. The tenants did not pay the outstanding rent within 5 days of receiving the notice, and did not apply to dispute the notice. The tenants 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. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

As for the monetary order, I find that the landlord has established a claim of **\$1,450.00**, which is comprised as follows:

\$700.00: *unpaid rent for January*
\$700.00: *unpaid rent for February*
\$50.00: *filing fee*

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, and provides in part as follows:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all of the above, I order that the landlord retain the tenants' security deposit of **\$350.00**, and I grant the landlord a **monetary order** for the balance owed of **\$1,100.00** (\$1,450.00 - \$350.00).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective **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 landlord in the amount of **\$1,100.00**. 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: February 20, 2013

Residential Tenancy Branch

