



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR OPB MNR

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent.

The landlord participated in the teleconference hearing, but the tenants did not call into the hearing. On January 25, 2013 the landlord served the tenants with the application for dispute resolution and notice of hearing by registered mail. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I find that the tenants are deemed served with notice of the hearing on January 30, 2013.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Background and Evidence

The tenancy began on October 15, 2013. Rent in the amount of \$2900 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenants in the amount of \$1450. The tenants failed to pay rent in the month of January 2013 and on January 8, 2013 the landlord served the tenants with a notice to end tenancy for non-payment of rent. The tenants did not pay the outstanding rent for January 2013. The landlord has claimed \$2900 in unpaid rent as well as \$60 for two late payment fees of \$30 each for late rent in November and December 2012.

Analysis

Based on the landlord's evidence I find that the tenants were served with a notice to end tenancy for non-payment of rent. The tenants have not paid the outstanding rent and have not applied for dispute resolution to dispute the notice and are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim for \$2900 in unpaid rent. A landlord may not charge more than \$25 for a late payment fee, and that portion of the tenancy agreement is therefore void. The landlord is not entitled to the amount claimed for the late payment fees.

Conclusion

I grant the landlord an order of possession effective two days from service. The tenants must be served with the order of possession. 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.

The landlord is entitled to \$2900. I order that the landlord retain the security deposit of \$1450 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1450. This order may be 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 18, 2013

Residential Tenancy Branch

