



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

This hearing concerns an application by the landlords for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. The landlords attended and gave affirmed testimony.

The landlords testified that the application for dispute resolution and notice of hearing (the “hearing package”) was served on the tenants by way of UPS on March 9, 2013. Documentary evidence submitted by the landlords includes a copy of the UPS Parcel Shipping Order. Despite this, neither tenant appeared.

Issue(s) to be Decided

Whether the landlords are entitled to any of 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 month-to-month tenancy began in October 2012. Monthly rent of \$1,100.00 is due and payable in advance on the last day of each preceding month, and a security deposit of \$550.00 was collected.

Arising from rent which was unpaid for March when due on February 28, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated March 1, 2013. The notice was served in-person on that same date. Subsequently, the tenants made a payment in the limited amount of \$400.00. No rent has been paid for April. The landlords testified that the identity of all those presently residing in the unit is unknown.

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 landlords, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated March 1, 2013. The tenants did not pay the full amount of rent outstanding 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 landlords have established entitlement to an **order of possession**.

As for the monetary order, I find that the landlords have established entitlement to a claim of **\$1,850.00**, which is comprised as follows:

\$700.00: *balance of unpaid rent for March (\$1,100.00 - \$400.00)*
\$1,100.00: *unpaid rent for April*
\$50.00: *filing fee*

Section 72 of the Act speaks to **Director's orders: fees and monetary orders**, in part:

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 the above, I order that the landlords retain the security deposit of **\$550.00**, and I grant the landlords a **monetary order** for the balance owed of **\$1,300.00** (\$1,850.00 - \$550.00).

Conclusion

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 **\$1,300.00**. 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: April 4, 2013

Residential Tenancy Branch

