



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Fair Label Enterprises Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent and both tenants.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on January 1, 2013 for a 10 month fixed term tenancy beginning on February 1, 2013 for the monthly rent of \$875.00 due on the 1st of each month and a security deposit of \$437.50 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on March 5, 2013 with an effective vacancy date of March 15, 2013 due to \$437.50 in unpaid rent.

The landlord submits the tenants failed to pay the full rent owed for the months of March and April 2013 and that the tenants were served the 10 Day Notice to End Tenancy for

Unpaid Rent personally on March 5, 2013 at 12:00 p.m. and that this service was acknowledged by one of the tenants by signing the landlord's proof of service document.

The tenants submit that their rent is paid directly from the Ministry of Social Development (MSD) and that the landlord would have received March 2013 rent in this manner. The landlord testified that they did receive rent for one of the tenants but that they did not for the other tenant. She further stated she contacted the MSD and was told the 2nd tenant requested it not be sent to the landlord.

The tenants testified that they believed that all of their rent had been paid to the landlord. The tenants also submit that because a hearing had been set for the landlord's notice the MSD withheld the rent portions, as a result April 2013 rent has not been paid for the tenants.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on March 5, 2013 and the effective date of the notice was March 15, 2013. I accept the evidence before me that the tenants failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenants are conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

I accept the tenant's testimony that April 2013 rent has not yet been paid to the landlord and despite the tenant's testimony that all of March 2013 rent had been paid I find the tenants have failed to provide any evidence to substantiate this payment.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply

with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,362.50** comprised of \$1,312.50 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$437.50 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$925.00**.

This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 16, 2013

Residential Tenancy Branch

