



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent, for money owed or compensation for damage or loss, to keep all or part of the security deposit and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenants did not attend or submit any documentary evidence. The Landlord states that an amended application was filed on April 4, 2013 and that all of the Tenants were personally served with the amended notice of hearing package and evidence on April 4, 2013. I accept the undisputed testimony of the Landlord and find that the Tenants were personally served with the notice of hearing package and submitted evidence on April 4, 2013.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security deposit?

Background and Evidence

This Tenancy began on February 1, 2013 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$825.00 payable on the 1st of each month and a security deposit of \$412.50 was paid on February 4, 2013.

The Landlord states that all three of the Tenants were served with a 10 day notice to end tenancy issued for unpaid rent on March 12, 2013 in person. The notice is dated March 12, 2013 and states that \$825.00 in rent was due on March 1, 2013 and was unpaid. The notice displays an effective date of March 22, 2013.

The Landlord states that he received a \$275.00 cheque from social services for which he cashed in April 2013 and applied to March rent arrears. The Landlord states that he issued a receipt for this payment "for use and occupancy only."

The Landlord seeks a monetary order for \$1,702.76 as stated in the monetary worksheet submitted. This consists of \$550.00 (\$825.00 - \$275.00) for March rent arrears, \$825.00 for April unpaid rent and utilities for March Fortis \$64.52, April Fortis \$83.00, March Hydro \$49.36, April Hydro \$57.60 and March Cable \$36.64 and April Cable \$36.64. The Landlord relies on a copy of the signed tenancy agreement which states that the Tenants are responsible for 40% of utilities and the submitted copies of the utility invoices.

Analysis

I accept the undisputed testimony of the Landlord and find on a balance of probabilities that the Tenants were probably served with the 10 day notice to end tenancy issued for unpaid rent. The Tenants did not pay the rent within the allowed time frame nor did they apply for dispute resolution to dispute the notice. The Tenants are presumed to have accepted that the Tenancy was at an end. The Landlord is granted an order of possession. The Tenants must be served with the order of possession. Should the Tenants fail to comply, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I accept the undisputed testimony of the Landlord and find based upon the documentary evidence submitted that the Tenant has failed to pay rent. The Landlord has established a monetary claim for the amount of \$1,702.76 for unpaid rent and utilities. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$412.50 security deposit in partial satisfaction of the claim and grant the Landlord a monetary order for the balance due of \$1,340.26. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted an order of possession and a monetary order for \$1,340.28. The Landlord may retain the security deposit.

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 18, 2013

Residential Tenancy Branch

