



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding david burr Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR and FF

Introduction

This hearing was convened on the landlord's application of March 28, 2013 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by posting on the tenants' door on March 6, 2013. The landlord also sought a Monetary Order for unpaid rent and recovery of the filing fee for this proceeding.

Issue(s) to be Decided

This application now requires a decision on whether the landlord is entitled to an Order of Possession and Monetary Order as requested.

Background and Evidence

This tenancy began on April 1, 2007. Rent is \$998 per month and the landlord holds a security deposit of \$447.50 paid at the beginning of the tenancy and the tenants believe a \$250 pet damage deposit was paid later.

During the hearing, the landlord gave evidence that the Notice to End Tenancy of March 6, 2013 had been served when the tenants had failed to pay \$481 of the rent due on March 1, 2013.

In the interim, the March shortfall remains unpaid and the tenants have not paid \$517 of the rent that was due on April 1, 2013.

The tenants concurred with the rent arrears and stated they believed they would be able to bring their account fully up to date by the end of the day.

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due.

Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenants may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenants did not pay the rent within five days of receiving the notice and did not make application to dispute it.

Therefore, under section 46(5) of the *Act*, the tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy which was March 19, 2013, taking into account three days for service of notice served by posting.

Accordingly, I find that the landlord is entitled to an Order of Possession to take effect two days from service of it on the tenants.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent for March and April 2013 and, as the application has succeeded on its merits, recovery of the filing fee for this proceeding.

Thus, I find that, at present, the tenants owe to the landlord an amount calculated as follows:

Rent shortfall for March 2013	\$ 481.00
Rent shortfall for April 2013	517.00
Filing fee	<u>50.00</u>
TOTAL	\$1,048.00

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect two days from service of it on the tenants.

The landlord's copy of this decision is also accompanied by a Monetary Order for **\$1,048.00**, enforceable through the Provincial Court of British Columbia, for service on the tenants.

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 25, 2013

Residential Tenancy Branch

