



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Istrata Property Management Corp
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MND, 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 only.

The landlord submitted documentary evidence indicating the tenants were served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on April 10, 2013 in accordance with Section 89 and that this service was witnessed by a third party.

Based on the testimony of the landlord, I find that the tenants have been sufficiently served with the documents pursuant to the *Act*.

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 damage to the rental unit; 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 May 28, 2012 for a 6 month fixed term tenancy beginning on June 1, 2012 that converted to a month to month tenancy on December 1, 2012 for the monthly rent of \$725.00 due on the 1st of each month and a security deposit of \$362.50 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 \$670.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the month of March 2013 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on March 5, 2013.

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.

The landlord submitted receipts for the tenants 4 subsequent payments to pay off the rent in full noted in the Notice by March 28, 2013. All receipts are noted for use and occupancy only. The landlord testified the tenants still owe \$505.00 for May 2013 rent and a late payment charge of \$25.00.

The landlord seeks compensation for the replacement of glass from the front door of the residential property in the amount of \$386.40 and for the replacement of a window in the rental unit in the amount of \$250.00 that had been damaged by the tenants and/or their guests. The landlord submits the window in the rental unit is not yet repaired.

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 8, 2013 and the effective date of the notice is amended to March 18, 2013, pursuant to Section 53 of the *Act*. 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.

Based on the undisputed testimony of the landlord I find the tenants have failed to pay rent for the month of May 2013 and the late charges in the amount of \$530.00. Further, I accept, based on the landlord's undisputed testimony, that the tenants are responsible for the replacement front door window in the amount of \$386.40. I note the landlord had to have this repair completed immediately for the safety and well-being of all tenants in the residential property.

However, as the tenancy has not yet ended I find the portion of the landlord's Application seeking compensation for the repair of the window in the tenants' rental unit is premature as the tenants have until they vacate the unit to have it repaired. I dismiss this portion of the landlord's Application with leave to reapply.

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 **\$966.40** comprised of \$530.00 rent owed; \$386.40 replacement front door window 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 \$362.50 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$603.90**.

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: May 07, 2013

Residential Tenancy Branch

