



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNDC, MNR, 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.

The landlord provided documentary evidence that both 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)* by registered mail on April 7, 2013 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenants on the 5th day after it was mailed.

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 and/or for cause; to a monetary order for unpaid rent; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 47, 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 September 3, 2012 for a month to month tenancy beginning on September 1, 2012 for the monthly rent of \$1,130.00 due on the 1st of each month and a security deposit of \$565.00 was paid;
- A copy of a 1 Month Notice to End Tenancy for Cause that was issued on March 8, 2013 with an effective vacancy date of April 30, 2013 citing the tenants have been repeatedly late paying rent; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on April 2, 2013 with an effective vacancy date of April 15, 2013 due to \$1,130.00 in unpaid rent.

The landlord submits the tenants have been late paying rent every month since December 2012 and that the tenants were served the 1 Month Notice to End Tenancy for Cause personally on March 8, 2013 citing the tenants are repeatedly late paying rent. The Notice states the tenant had ten days to apply for Dispute Resolution or the tenancy would end. The tenants did not dispute this Notice to End Tenancy within ten days.

The landlord submits the tenants failed to pay the full rent owed for the month of April 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 April 2, 2013 at 5:00 p.m. and that this service was witnessed by a third party.

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 notices to end tenancy as declared by the landlord. The 1 Month Notice was received by the tenants on March 8, 2013 and the effective date of the notice was April 30, 2013 and the 10 Day Notice is deemed to have been received by the tenants on April 5, 2013 and the effective date was April 15, 2013. I accept the evidence before me that the tenants failed to apply to dispute the 1 Month Notice within 10 days allowed for under Section 47(4) of the *Act* or to pay the rent owed in full or apply to dispute the 10 Day Notice within the 5 days granted under Section 46(4).

Based on the foregoing, I find the tenants are conclusively presumed under Sections 47(4) and 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

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 **\$1,180.00** comprised of \$1,130.00 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 \$565.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$615.00.**

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: May 01, 2013

Residential Tenancy Branch

