



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent or utilities / retention of the security deposit / and recovery of the filing fee. The landlord attended with "KK," a person assisting him. Through the person assisting him the landlord gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail, the tenants did not appear. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered."

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement for this tenancy which began on February 1, 2013. Monthly rent of \$1,400.00 is due and payable in advance on the first day of each month, and a security deposit of \$700.00 was collected. The landlord testified that the tenants are also responsible for paying a portion of the monthly utilities. While the landlord has applied to recover utilities in the amount of \$212.00, there are no related utility bills or invoices in evidence.

Arising from rent and utilities which remained unpaid when due on May 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent or utilities dated June 17, 2013. The notice was served in-person on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate the unit is June 27, 2013. Subsequently, the tenants have made no further payment toward rent or utilities, and they continue to reside in the unit.

Analysis

Based on the documentary evidence and affirmed / undisputed testimony of the landlord, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent or utilities dated June 17, 2013. The tenants did not pay the outstanding rent or utilities within 5 days of receiving the notice, and they did not apply to dispute the notice. The tenants are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. I find that the landlord has therefore established entitlement to an **order of possession**.

As for the monetary order, I find that the landlord has established a claim of **\$4,350.00**:

\$100.00: *unpaid rent for April*
\$1,400.00: *unpaid rent for May*
\$1,400.00: *unpaid rent for June*
\$1,400.00: *unpaid rent for July*
\$50.00: *filing fee*

In the absence of sufficient documentary evidence, the application for recovery of unpaid utilities is hereby dismissed. I order that the landlord retain the security deposit of **\$700.00**, and I grant the landlord a **monetary order** for the balance owed of **\$3,650.00** (\$4,350.00 - \$700.00).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenants. This order must be served on the tenants. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$3,650.00**. This order may be served on the tenants, filed in the Small Claims Court and 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: July 26, 2013

Residential Tenancy Branch

