



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 an application by the landlords for an order of possession / a monetary order as compensation for unpaid rent / retention of the security deposit / and recovery of the filing fee. The landlords attended and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing (the “hearing package”) on each of the 2 tenants, neither tenant appeared. Evidence submitted by the landlords includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that both items were “successfully delivered.”

Issue(s) to be Decided

Whether the landlords are entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which the landlords testified began in July 2009. Monthly rent of \$850.00 is due and payable in advance on the first day of each month, and a security deposit of \$425.00 was collected.

In response to a previous application by the landlords with respect to this same rental unit, a hearing was held on July 5, 2012 between these landlords and tenant “JAD,” who is also named in this current application, and another tenant who is not named in this current application (file # 793286). In the result, an order of possession and a monetary order were issued in favour of the landlords. The monetary order for \$1,200.00 reflects compensation for unpaid rent in the total amount of \$1,150.00, which is comprised of \$300.00 for June and \$850.00 for July, in addition to the \$50.00 filing fee.

Subsequent to the decision dated July 5, 2012, arising from rent which remained unpaid over several months, the landlords issued a 10 day notice to end tenancy for unpaid

rent dated May 2, 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 May 12, 2013. Thereafter, the tenants made only partial payments toward rent, and they continue to reside in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlords, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated May 2, 2013. The tenants did not pay the full amount of rent outstanding within 5 days of receiving the notice, and 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. Accordingly, I find that the landlords have established entitlement to an **order of possession**.

I find that the documentary evidence concerning payments toward rent is confusing. Accordingly, as for the monetary order, based principally on the affirmed / undisputed testimony of the landlords I find that they have established a claim of **\$2,050.00**, which is comprised as follows:

\$275.00: <i>December 2012</i>

\$125.00: <i>March 2013</i>
\$100.00: <i>April 2013</i>
\$425.00: <i>May 2013</i>
\$225.00: <i>July 2013</i>
\$850.00: <i>August 2013</i>

\$50.00: <i>filing fee</i>

I order that the landlords retain the security deposit of **\$425.00**, and I grant the landlords a **monetary order** under section 67 of the Act for the balance owed of **\$1,625.00** (\$2,050.00 - \$425.00).

The landlords' application for recovery of unpaid rent of \$350.00 for July 2012 is hereby dismissed, as the monetary order issued in their favour by date of July 5, 2012, reflects compensation for the full amount of July's unpaid rent of \$850.00.

Conclusion

I hereby issue an **order of possession** in favour of the landlords 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 landlords in the amount of **\$1,625.00**. Should it be necessary, 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: August 23, 2013

Residential Tenancy Branch

