



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing was scheduled in response to an application by the landlords for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / 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”) by way of registered mail, 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 the item was “unclaimed by recipient.”

Issue(s) to be Decided

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

Background and Evidence

Pursuant to a written tenancy agreement, the tenancy began on August 1, 2012. Monthly rent of \$2,500.00 is due and payable in advance on the first day of each month, and a security deposit of \$1,250.00 was collected.

Arising from rent which remained unpaid when due on July 1, 2013, the landlords issued a 10 day notice to end tenancy for unpaid rent dated July 2, 2013. The notice was served by posting on the unit door 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 July 15, 2013. Subsequently, no further payments were made toward rent.

Later, after giving written notice to the tenants of their intention to enter the unit in July, when the landlords attended the unit it appeared that it may have been vacated, and the landlords determined that locks had been changed. The landlords then proceeded to

have new locks installed and, thereafter, one of the tenants returned. Keys to the new locks were provided to the tenants as they had clearly not vacated the unit and / or removed all of their possessions.

While the landlords' understanding is that tenant "PC" may have vacated the unit towards the end of July 2013, they are uncertain whether tenant "WC" has permanently vacated the unit. Unit keys have not been returned to the landlords, and no forwarding address has been provided. When the landlords last attended the unit on August 17, 2013, it appeared that certain possessions and possibly discarded belongings remained in and around the unit.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Part 5 of the Residential Tenancy Regulation addresses **Abandonment of Personal Property** (sections 24 to 31).

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 July 2, 2013. The tenants did not pay the outstanding rent 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**.

As for the monetary order, I find that the landlords have established entitlement to compensation in the amount of **\$5,867.60**, as follows:

\$2,500.00: *unpaid rent for July*

\$2,500.00: *unpaid rent / loss of rental income for August*

\$817.60: *locksmith*

\$50.00: *filing fee*

I order that the landlords retain the security deposit of **\$1,250.00**, and I grant the landlords a **monetary order** under section 67 of the Act for the balance owed of **\$4,617.60** (\$5,867.60 - \$1,250.00).

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 **\$4,617.60**. 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 21, 2013

Residential Tenancy Branch

