



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Homelife Peninsula Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, OPB, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent and breach of an agreement with the landlord, a monetary order for unpaid rent, for authority to retain the tenants' security deposit and to recover the filing fee.

The landlord appeared; the tenants did not appear.

The landlord gave evidence that they served each tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on July 16, 2013. The landlord supplied the written proof of the registered mail receipts showing the tracking numbers of the registered mail.

I find the tenants were served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenants' absence.

The landlord was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary issue-The landlord said that the tenants vacated the rental unit on August 1, 2013, and therefore they were no longer seeking an order of possession for the rental unit.

Issue(s) to be Decided

Is the landlord entitled to a monetary order, authority to retain the tenants' security deposit, and to recover the filing fee?

Background and Evidence

The landlord gave evidence that this tenancy began on September 1, 2012, monthly rent was \$1495, and a security deposit of \$747.50 was paid by the tenants at the beginning of the tenancy.

The landlord's monetary claim is \$1245, the balance of unpaid rent due for May 2013.

The landlord gave evidence that on May 16, 2013, the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by posting it on the tenants' door, listing unpaid rent of \$1495 as of May 1, 2013. The effective vacancy date listed on the Notice was May 26, 2013.

The Notice informed the tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenants had five days to dispute the Notice by making an application for dispute resolution.

The landlord stated that the tenants made a payment of \$250 on May 17, 2013, and owed \$1245 for the balance of the May rent.

The landlord also submitted that they are currently holding a balance of \$219.65 from the tenants' security deposit, as the tenants agreed to a deduction of \$527.85 for cleaning and repairs.

I have no evidence before me that the tenants applied to dispute the Notice.

Analysis

Based on the oral and written evidence and on a balance of probabilities, I find the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice within five days of service and 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 therefore find that the landlord is entitled to a monetary award of \$1295, comprised of outstanding rent of \$1245 through May, 2013, as requested, and the \$50 filing fee paid by the landlord for this application.

Conclusion

At the landlord's request, I allow the landlord to retain the remainder of the tenants' security deposit of \$219.65 in partial satisfaction of their monetary award.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$1075.35, which I have enclosed with the landlord's Decision.

Should the tenants fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

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* and is being mailed to both the applicant and the respondents.

Dated: August 16, 2013

Residential Tenancy Branch

