



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lucky Lee's Holdings (2005) Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR; MNR; MND; FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent, utilities and damage to the rental unit; and to recover the cost of the filing fee from the Tenants.

The parties gave affirmed testimony at the Hearing.

The Landlord testified that she served each of the Tenants with the Notice of Hearing documents and copies of her documentary evidence, by handing the documents to the Tenants at the rental unit on July 15, 2013, with a witness present. The Tenant JM acknowledged service of the documents.

Based on the evidence provided, I am satisfied that both of the Tenants were served with the Notice of Hearing documents. Despite being served, the Tenant LB did not sign into the teleconference which remained open for 30 minutes. The matter proceeded in LB's absence.

Preliminary Matters

The Landlord has applied for damages to the rental unit, but does not know the extent of damage or the cost to repair it. Likewise, the Landlord has applied for unpaid utilities, but she has not received all of the invoices for which the Tenants are responsible. Therefore these portions of her Application are **dismissed with leave to reapply**.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession and Monetary Order for unpaid rent?

Background and Evidence

The Landlord testified that the male Tenant is her nephew. She stated that rent is \$1,000.00 per month, due on the first of each month. The Landlord testified that the

Tenants didn't pay any rent for the month of June, 2013, and only paid \$700.00 towards rent for the month of July, 2013. She stated that the Tenants have not paid any rent for August, either. Therefore, she seeks a monetary award in the amount of \$2,300.00 for unpaid rent.

The Landlord testified that she served the Tenants with the Notice to End Tenancy by leaving it personally with the male Tenant on July 5, 2013. The male Tenant acknowledged receipt of the Notice to End Tenancy on July 5, 2013. The Tenants have not filed an Application disputing the Notice.

The male Tenant stated that he didn't owe rent for the month of June, 2013, because he had paid the Landlord in cash. He also stated that the Landlord would not give receipts for rent paid in cash.

The Landlord stated that she did receive \$2,000.00 cash from the Tenants, but it was for different months. She agreed that she did not issue receipts.

Analysis

I accept that the Landlord served the Tenants with the Notice to End Tenancy by handing the Notice to the male Tenant on July 5, 2012. The Tenants did not pay July arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to the provisions of Section 46(5) of the Act, the Tenants are conclusively presumed to have accepted that the tenancy ended on July 15, 2012. I find that the Landlord is entitled to an Order of Possession.

I find that the Landlord has established a monetary claim for unpaid rent and loss of revenue for the months of July and August, 2013 in the total amount of \$1,300.00. However, I find that the Landlord provided insufficient evidence that the Tenants did not pay rent for June, 2013. The Act requires Landlords to provide receipts for rent paid in cash but the Landlord did not comply with the legislation. Furthermore, the Landlord provided no rent ledgers or bank statements to support her contention that the Tenants had not paid rent for June, 2013.

The Landlord has been successful in her application and I find that she is entitled to recover the cost of the \$50.00 filing fee from the Tenants.

Conclusion

I hereby provide the Landlord an Order of Possession effective **2 days after service of the Order upon the Tenants**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlord a Monetary Order in the amount of **\$1,350.00** for service upon the Tenants. This Order may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

The Landlord's application for a monetary award for damages and unpaid utilities is **dismissed with leave to reapply.**

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 22, 2013

Residential Tenancy Branch

