



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord only.

The landlord testified the tenants were served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by personally on August 10, 2013 in accordance with Section 89 personally to one of the tenants.

Based on the testimony of the landlord, I find that the tenants have been sufficiently served with the documents pursuant Section 89 to the *Act* for the purposes of obtaining an order of possession.

However, as the landlord only served one of the tenants named in this Application I find that for the purposes of obtaining a monetary order the landlord has failed to serve both tenants as is required under Section 89. Therefore, I dismiss the landlord's claim for a monetary order for unpaid rent with leave to reapply.

Issue(s) to be Decided

The issue to be decided is whether the landlord is entitled to an order of possession for unpaid rent and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

Background and Evidence

The landlord testified the tenancy began as a month to month tenancy beginning on February 1, 2013 for the monthly rent of \$770.00 due on the 1st of each month and a security deposit of \$385.00 was paid.

The landlord provided a copy of a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on July 25, 2013 with an effective vacancy date of August 5, 2013 due to \$2,310.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the months of May, June and July 2013 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent personally on July 25, 2013.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and testimony and accept that the tenants have been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on July 25, 2013 and the effective date of the notice was August 5, 2013. I accept the evidence before me that the tenants failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenants are conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$50.00** comprised of the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct this amount from the security deposit held in the amount of \$385.00 in satisfaction of this claim pursuant to Section 72(2)(b), leaving a balance of \$335.00.

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 27, 2013

Residential Tenancy Branch