



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, 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, a monetary order for unpaid rent and money owed or compensation for damage or loss, for authority to retain the tenants' security deposit and to recover the filing fee.

The parties appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

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 August 20, 2013. The landlord's evidence included the registered mail receipt containing the tracking number and the customer receipt.

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 their 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.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, a monetary order and to recover the filing fee?

Background and Evidence

The landlord's written and oral evidence shows that this tenancy began on August 1, 2012, monthly rent is \$1125, and a security deposit of \$562.50 was paid by the tenants at the beginning of the tenancy.

The landlord gave evidence that on August 2, 2013, he served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by leaving it in the tenants' mailbox, listing unpaid rent of \$1125 owed as of August 1, 2013. The effective vacancy date listed on the Notice was August 15, 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 have not made any payments of rent since being issued the Notice as of the date of the hearing, the tenants owed \$2250 in unpaid rent for August and September. The landlord also said the tenants owed \$25 for a late payment fee for August and September, each, pursuant to the agreed upon term in the tenancy agreement.

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 an order of possession for the rental unit effective two days after service of the order upon the tenants.

I also find that the landlord has proven their total monetary claim of \$2350, comprised of unpaid rent of \$2250 through September, 2013, \$50 for late payment fees, and the \$50 filing fee paid by the landlord for this application.

Conclusion

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlord's Decision. Should the tenants fail to vacate the rental unit pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

At the landlord's request, I allow the landlord to retain the tenants' security deposit of \$562.50, in partial satisfaction of the claim.

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 \$1787.50, 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: September 27, 2013

Residential Tenancy Branch

