



Dispute Resolution Services

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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 or utilities / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee.

Landlord "SRR" attended and gave affirmed testimony. The landlord testified that the application for dispute resolution and notice of hearing (the "hearing package") was served in-person on the tenants on or about August 30, 2013. Despite this, neither tenant appeared.

Issue(s) to be Decided

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

Background and Evidence

The unit which is the subject of this dispute is located in the upstairs portion of a house. Other renters reside in the downstairs portion of the house.

Pursuant to a written tenancy agreement, the tenancy began on May 29, 2013. Monthly rent of \$1,400.00 is due and payable in advance on the first day of each month. The tenancy agreement documents that a security deposit of \$700.00 was collected. There is no evidence before me of a pet damage deposit having been collected. The tenants are responsible for 66% of the cost of monthly utilities (electricity and gas), while it is understood that the downstairs renters are responsible for the balance.

Arising from rent and utilities which were unpaid when due on August 1, 2013, the landlords issued a 10 day notice to end tenancy for unpaid rent or utilities dated August 20, 2013. The notice was served in-person on that same date. A copy of the notice

was submitted in evidence. Subsequently, the tenants have made no further payment toward either rent or utilities, and they continue to reside in 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

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent or utilities dated August 20, 2013. The tenants did not pay the outstanding rent or utilities within 5 days of receiving the notice, and they 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 **\$4,378.65**, which is calculated as follows:

- \$1,400.00: *unpaid rent for August*
- \$128.65: *unpaid utilities for August*
- \$1,400.00: *unpaid rent for September*
- \$1,400.00: *unpaid rent for October*
- \$50.00: *filing fee*

I order that the landlords retain the security deposit of **\$700.00**, and I grant the landlords a **monetary order** for the balance owed of **\$3,678.65** (\$4,378.65 - \$700.00).

Pending the availability of documentary evidence in support of the cost of utilities for September and October 2013, that aspect of the landlords' application is hereby dismissed with leave to reapply.

In the event that a pet damage deposit was collected subsequent to the start of tenancy, as to the disposition of that deposit when tenancy ends, the attention of the parties is drawn to section 38 of the Act which addresses **Return of security deposit and pet damage deposit**.

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 **\$3,678.65**. Should it be necessary, 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: October 08, 2013

Residential Tenancy Branch

