



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNDC

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent or utilities / and compensation for damage or loss under the Act, Regulation or tenancy agreement. The landlord's wife / agent attended and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing (the "hearing package") on October 8, 2013, neither tenant appeared.

Issue(s) to be Decided

Whether the landlord is entitled to 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 basement portion of a house. The landlord resides in the upper / main portion of the house. Pursuant to a written tenancy agreement, tenancy began on May 1, 2013. Monthly rent of \$850.00 is due and payable on the last day of each month, and a security deposit of \$425.00 was collected. Pursuant to the tenancy agreement, the tenants are responsible for paying ½ of the monthly utilities (hydro & gas).

Arising from rent and utilities which were unpaid when due on September 30, 2013, the landlord issued a 10 day notice to end tenancy dated October 1, 2013. The notice was served in-person on that same date. A copy of the notice was submitted in evidence. Subsequently, the tenants made no further payment toward either rent or utilities and they continue to reside in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's wife / agent, I find that the tenants were served with a 10 day notice to end

tenancy for unpaid rent or utilities dated October 1, 2013. The tenants did not pay the outstanding rent or utilities within 5 days of receiving the notice, and 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 landlord has established entitlement to an **order of possession**.

As for the monetary order, I find that the landlord has established entitlement to a claim of **\$969.18**, which is calculated as follows:

\$850.00: *unpaid rent for October*

\$119.18: *unpaid utilities*

The landlord has not applied to recover the \$50.00 filing fee for his application.

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, and provides in part:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all the above, I order that the landlord retain the security deposit of **\$425.00**, and I grant the landlord a **monetary order** under section 67 of the Act for the balance owed of **\$544.18** (\$969.18 - \$425.00).

Conclusion

I hereby issue an **order of possession** in favour of the landlord 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 landlord in the amount of **\$544.18**. 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 23, 2013

Residential Tenancy Branch

