



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend or submit any documentary evidence. The Landlord states that the Tenants were both personally served with the notice of hearing package and the submitted documentary evidence on December 5, 2013. I accept the undisputed testimony of the Landlord and find that both parties have been properly served.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?
Is the Landlord entitled to a monetary order?
Is the Landlord entitled to retain the security deposit?

Background and Evidence

This Tenancy began on August 1, 2013 on a fixed term tenancy ending on July 31, 2014 as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$1,350.00 payable on the 1st of each month and a security deposit of \$675.00 was paid.

The Landlord states that the Tenants were served with a 10 day notice to end tenancy issued for unpaid rent dated November 23, 2013 in person to both Tenants on November 23, 2013 by the Landlord's Agent. The notice states that rent of \$1,670.00 was due on November 1, 2013 and was unpaid. The notice also states an effective end of tenancy date of December 3, 2013.

The Landlord states that the Tenants did make two late payments of \$400.00 on December 2, 2013 and again on December 19, 2013 of two cheques totalling,

\$1,140.00. The Landlord's Agent states that one of the cheques of \$570.00 was a stopped payment. The Landlord states that the Tenants still currently occupy the rental unit and are in total arrears for \$3,425.00.

The Landlord seeks an order of possession and a monetary order for \$3,425.00 for unpaid rent.

Analysis

I accept the undisputed testimony of the Landlord and find that the Tenants have been properly served with the 10 day notice to end tenancy issued for unpaid rent dated November 23, 2013. The Tenants failed to pay all of rent due nor did they file an application for dispute resolution to dispute the notice. The Tenants are conclusively presumed to have accepted that the Tenancy was at an end. The Landlord is granted an order of possession. The Tenants must be served with the order of possession. 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.

As for the monetary claim, I find based upon the undisputed evidence that the Landlord have established a monetary claim for \$3,425.00. The Tenants still occupy the rental unit as of the date of this hearing and have failed to pay all of the rent due. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$675.00 security deposit in partial satisfaction of the claim and I grant a monetary order for the balance due of \$2,800.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted an order of possession and a monetary order for \$2,800.00.

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: January 24, 2014

Residential Tenancy Branch

