



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MND, MNDC, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent and utilities, compensation for damage to the unit and for monetary loss under the Act, Regulation or tenancy agreement, and for filing fees.

The landlord attended the conference call hearing and gave affirmed evidence. The tenants did not attend. The landlord testified that he served the tenants with the Notice of a Dispute Resolution hearing and the Landlord's Application for Dispute Resolution on December 17, 2013 by personal service and by posting the documents on the tenants' door.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?
Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The parties entered into a tenancy agreement commencing August 1, 2013 wherein the tenants are obligated to pay \$1,400.00 in rent in advance on the first of the month. The tenants also paid a security deposit of \$700.00. The tenancy agreement specifies that the tenants are responsible for 100% of the electricity costs of the residence.

The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") and served it on the tenants on November 2, 2013 by both personal service and by posting the Notice on the tenants' door. The Notice specified that the tenants had failed to pay \$1,400.00 rent due on November 1, 2013 and \$400.00 utilities following written demand made November 1, 2013. The Notice specified a move-out date of November 10, 2013.

The landlord gave evidence that the tenants have not paid him any amount of money since the Notice was served, and continue to occupy the rental unit.

The landlord provided copies of two BC Hydro invoices in the landlord's name for the residence with billing dates of September 11, 2013 and November 12, 2013. He said that he provided a copy of each invoice to the tenants as soon as he received it, however the tenants did not give him any money to reimburse him for the invoices. The September 11, 2013 invoice has a billing period of July 10, 2013 to September 9, 2013. The November 12, 2013 invoice has a billing period of September 10, 2013 to November 7, 2013.

The landlord provided a copy of an Order dated September 11, 2013 from the City of Vancouver requiring him to remove an accumulation of rubbish and discarded material from the property on or before September 23, 2013. The landlord provided copies of photographs he said were taken on the property on September 3, 2013 during the City inspector's inspection. The photographs appear to show an accumulation of various household items sitting in the yard of the residence. The landlord's evidence was that the items were brought to the property by the tenants at the time they moved in. The landlord provided a copy of a receipt for \$500.00 dated September 18, 2013. He said the receipt was for the cost of hiring someone to remove the rubbish in compliance with the City of Vancouver Order.

Analysis

I find that the tenants received the Notice on November 2, 2013. I accept the landlord's undisputed evidence and I find the tenants did not pay the rental arrears and did not apply to dispute the Notice. The tenants are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. The move-out date of November 10, 2013 specified on the Notice did not provide the tenants with 10 days after they were served on November 2, 2013. The effective end date of the tenancy is therefore deemed to be November 12, 2013.

I grant the landlord an order of possession which must be served on the tenant. Should the tenant fail to comply with the order, it may be filed for enforcement in the Supreme Court.

I accept the landlord's evidence that the tenants failed to pay \$1,400.00 in rent for November 2013. I find that the tenants are overholding tenants within the meaning of Section 57 from November 13, 2013 until they move out. The landlord is therefore entitled to rent for the period November 1, 2013 to November 12, 2013 and

compensation for the period November 13, 2013 to November 30, 2013, which I set at a combined total of \$1,400.00. The landlord is also entitled to compensation for the month of December 2013 which I set at \$1,400.00, and compensation for part of the month of January 2014 which I set at \$700.00. These amounts total \$3,500.00. The landlord's application for compensation for the balance of the month of January 2014 is dismissed with leave to reapply.

I find that the tenants are obligated to reimburse the landlord for the BC Hydro invoices he paid for electricity consumed from August 1, 2013 until the tenants move out. The BC Hydro invoice dated September 11, 2013 for the billing period July 10, 2013 to September 9, 2013 totals \$312.52. I find the tenants are responsible for 40 days out of the 62 day billing period, and I set their portion of this invoice at \$201.63. The tenants are responsible for the entire invoice dated November 12, 2013 and this amount is \$312.30. These amounts total \$513.93 owing for utilities.

I accept the landlord's evidence that the tenants' belongings were left in the yard of the rental unit and this resulted in a \$500.00 loss to the landlord, as he was forced to spend \$500.00 to comply with a City of Vancouver Order to remove the items. I award the landlord \$500.00 in satisfaction of his loss.

The landlord has not provided evidence of damage to the suite. That claim is dismissed with leave to reapply.

The landlord is entitled to recover his filing fee of \$50.00. The total amount due to the landlord is \$4,563.93. The landlord is entitled to retain the security deposit of \$700.00 in partial satisfaction of the claim. I therefore grant the landlord an order under Section 67 for the balance due of \$3,863.93. This order may be filed in the Small Claims Court and enforced as an order of that Court.

In summary, the landlord is granted a monetary order as follows:

Unpaid rent – Nov 2013, Dec 2013, Jan 2014	3,500.00
Unpaid Hydro	513.93
Rubbish removal	500.00
Filing fee	<u>50.00</u>
Total	4,563.93
Less Security Deposit	<u>(700.00)</u>
Monetary Order	\$ 3,863.93

Conclusion

I grant the landlord an order of possession and a monetary order of \$3,863.93. The landlord is also entitled to retain the security deposit.

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 16, 2014

Residential Tenancy Branch

