



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPB, MND, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord

The landlord testified each tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on January 28, 2014 at 3:45 p.m. in accordance with Section 89 and that this service was witnessed by a third party.

Based on the testimony of the landlord, I find that each tenant has been sufficiently served with the documents pursuant to the *Act*.

Residential Tenancy Branch Rule of Procedure 2.3 states that an Arbitrator may dismiss unrelated disputes that are contained in a single application. As the landlord has applied for an order of possession based on unpaid rent and a monetary order for damage to the rental unit, I find that the monetary order sought by the landlord is unrelated to the issue of the notice to end tenancy.

As such, I dismiss the portion of the landlord's Application seeking a monetary order for damage to the rental, with leave to reapply at a future date.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 32, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on December 1, 2013 for a month to month tenancy beginning on December 1, 2013 for the monthly rent of \$850.00 due on the 1st of each month and a security deposit of \$450.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on January 6, 2014 with an effective vacancy date of January 16, 2014 due to \$25.00 in unpaid rent.

The landlord testified the tenants failed to pay the full rent owed for the month of January 2014 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent personally on January 6, 2014 and that this service was witnessed by a third party.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days. The landlord submitted the tenants did pay \$20.00 on January 22, 2014 and the balance of \$5.00 by January 29, 2014.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on January 6, 2014 and the effective date of the notice was January 16, 2014. I accept the evidence before me that the tenants failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenants are conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$50.00** comprised of the fee paid by the landlord for this application.

I order the landlord may deduct this amount from the security deposit held in the amount of \$450.00 in satisfaction of this claim, pursuant to Section 72(2)(b) leaving a balance in the security deposit of \$400.00.

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: March 13, 2014

Residential Tenancy Branch

