



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLUMBIA PROPERTY MANAGEMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and money owed or compensation for damage or loss, for authority to retain the tenants' security deposit and to recover the filing fee.

The landlord's agent (hereafter "landlord") attended; the tenants did not attend the telephone conference call hearing.

The landlord provided documentary evidence that they served each tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on February 19, 2014. The landlord supplied the receipts showing the tracking number of the registered mail.

Based upon the landlord's submissions, I find the tenants were served notice of this hearing and the landlords' application in a manner complying with section 89(1) of the Residential Tenancy Act and the hearing proceeded in the tenants' absence.

The landlord was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, authority to retain the tenants' security deposit, further monetary compensation, and to recover the filing fee?

Background and Evidence

The landlord provided evidence that this tenancy began on April 1, 2013, monthly rent is \$850, and a security deposit of \$425 was paid by the tenants at the beginning of the tenancy.

The landlord provided evidence that on February 6, 2014, the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by attaching it to the tenants' door, listing unpaid rent of \$905 as of February 1, 2014. The effective vacancy date listed on the Notice was February 16, 2014.

Section 90 of the Act states that documents served by posting on the door are deemed delivered three days later. Thus the tenants were deemed to have received the Notice on February 9, 2014, and the effective move out date is automatically changed to February 19, 2014, pursuant to section 53 of the Act.

The Notice informed the tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenants had five days to dispute the Notice by making an application for dispute resolution.

The landlord submitted that the tenants have made payments toward the rent deficiency, by paying \$860 on February 18, 2014, and \$800 on March 4, 2014, with receipts showing that the acceptance of the payments was on a for use and occupancy only basis.

The landlord further submitted that the tenants have not paid the rent for April and were issued another 10 Day Notice to End Tenancy for Unpaid Rent or Utilities; as of the day of the hearing, the tenants owed \$945 in unpaid rent.

I have no evidence before me that the tenants applied to dispute the Notice.

Analysis

Based upon the landlord's undisputed evidence, I find the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice within five days of service and were therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I therefore find that the landlord is entitled to an order of possession for the rental unit effective two days after service of the order upon the tenants.

I also find that the landlord is entitled to a monetary award of \$995 comprised of outstanding rent owed of \$945 through April, 2014, and the \$50 filing fee paid by the landlord for this application, which I have granted them recovery of due to their successful application.

Conclusion

The landlord's application has been granted.

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlord's Decision. Should the tenants fail to vacate the rental unit pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

At the landlord's request, I allow the landlord to retain the tenants' security deposit of \$425 in partial satisfaction of their monetary award of \$995.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$570, which I have enclosed with the landlord's Decision.

Should the tenants fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

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* and is being mailed to both the applicant and the respondents.

Dated: April 09, 2014

Residential Tenancy Branch

