



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Blueridge Apartments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

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

Introduction

This hearing concerns an application by the landlord for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the tenancy began on November 01, 2012. Monthly rent is due and payable in advance on the first day of each month. Presently, the monthly rent is \$1,505.00. A security deposit of \$725.00 was collected.

Arising from rent of \$3,010.00 which remained unpaid when due on February 01, 2014, the landlord issued a 10 day notice to end tenancy for unpaid rent dated February 03, 2014. The notice was served by way of posting on the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate the unit is February 13, 2014. Subsequently, on February 14, 2014 the tenants made payment in full of the outstanding rent (\$1,505.00 for January and \$1,505.00 for February). The tenants have also paid rent in full for March and April, and they continue to reside in the unit. However, during the hearing the landlord's agents confirmed that the landlord still seeks an order of possession.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the documentary evidence and testimony, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated February 03, 2014. As the notice was posted on the unit door on that same date, pursuant to section 90 of the Act which addresses **When documents are considered to have been received**, the tenants are deemed to have received the notice 3 days later on February 06, 2014.

The tenants paid all the overdue rent on February 14, 2014. However, the tenants did not pay the outstanding rent within 5 days (February 11, 2014) after they were deemed to have received the notice on February 06, 2014, and they 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. In the result, I find that the landlord has established entitlement to an **order of possession**. During the hearing the landlord's agents requested that the order of possession be made effective **April 30, 2014**.

As for compensation, I find that the landlord has established entitlement to recovery of the **\$50.00** filing fee. I hereby order that this amount may be withheld from the security deposit at the end of tenancy.

As the end of tenancy nears, the attention of the parties is drawn to the following two particular sections of the Act:

Section 37: **Leaving the rental unit at the end of a tenancy**

Section 38: **Return of security deposit and pet damage deposit**

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **Wednesday, April 30, 2014**. 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.

I hereby order that the landlord may recover the **\$50.00** filing fee by way of withholding that amount from the security deposit at the end of tenancy.

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: April 07, 2014

Residential Tenancy Branch

