



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, OPR, MNR, MNDC, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") 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 attended; the tenants did not attend the telephone conference call hearing.

The landlord gave evidence that she served each tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on March 14, 2014. The landlord supplied receipts showing the tracking numbers of the registered mail and testified that the mail was signed for and collected by the tenants, as shown by her research.

Based upon the submissions of the landlord, I find the tenants were served notice of this hearing in a manner complying with section 89(1) of the 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.

Preliminary matter-The landlord submitted that the tenants vacated the rental unit on March 15, 2014, and as a result, the landlord was no longer seeking an order of possession for the rental unit. I have excluded this request from further consideration.

Preliminary matter #2-The landlord submitted that her mother, who died in August 2013, was the original landlord, and that she has been appointed executrix of her mother's estate. In support of this submission, the landlord pointed to her evidence showing the tenants making monthly rent payments to her.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, monetary compensation and to recover the filing fee?

Background and Evidence

The landlord gave evidence that this tenancy began on January 1, 2013, monthly rent is \$800, and a security deposit of \$400 was paid by the tenants at the beginning of the tenancy.

The landlord gave evidence that on March 4, 2014, the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by leaving it with the tenants, listing unpaid rent of \$1000 as of March 1, 2014. The effective vacancy date listed on the Notice was March 14, 2014.

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 stated that the tenants did not make any further rent payments, and as of the date of the hearing, the tenants owed \$1800 in unpaid rent, which included a claim for loss of rent revenue for April, in the amount of \$800.

In response to my question, the landlord confirmed that after the tenants had vacated by March 15, she made no attempts to re-rent the rental unit for April, due to her plans for repairs and renovations.

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 all the outstanding rent or file an application for dispute resolution in dispute of the Notice within five days of service. I further find that the landlord has proven that the tenants owed \$1000 in unpaid rent through March 2014 and is therefore entitled to a monetary award in that amount.

As to the landlord's claim for loss of rent revenue for April 2014, I find the landlord failed to take reasonable steps to minimize her loss, as required of her by section 7(2) of the Act. I find reasonable steps would be to place the rental unit back on the rental market immediately in order to obtain new tenants for the month following the tenants vacating.

As I find the landlord failed to comply with section 7(2) of the Act, I dismiss her claim for loss of rent revenue for April 2014, in the amount of \$800.

I award the landlord recovery of her filing fee of \$50.

I therefore find that the landlord is entitled to a monetary award of \$1050 comprised of unpaid rent of \$1000 through March 2014, and the \$50 filing fee paid by the landlord for this application.

Conclusion

The landlord has been granted a monetary award in the amount of \$1050.

At the landlord's request, I allow the landlord to retain the tenants' security deposit of \$400 in partial satisfaction of her award.

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 \$650, 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 29, 2014

Residential Tenancy Branch

