



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Warrington PCI Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MNDC, FF

Introduction

This hearing was scheduled in response to the landlord's application 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 / and recovery of the filing fee. The landlord's agents attended and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing by way of registered mail, neither tenant appeared. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item(s) were "successfully delivered."

Issue(s) to be Decided

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

Background and Evidence

Pursuant to a written tenancy agreement the fixed term of tenancy is from August 01, 2013 to July 31, 2014. Monthly rent of \$2,500.00 is due and payable in advance on the first day of each month. A security deposit of \$1,250.00 and a pet damage deposit of \$1,250.00 were collected.

Arising from rent which was unpaid when due on April 01, 2014, the landlord issued a 10 day notice to end tenancy for unpaid rent dated April 02, 2014. The notice was served by way of delivery through the mail slot 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 April 12, 2014. Subsequently, the tenants made no further payment toward rent and they continue to reside in the unit.

Analysis

Based on the documentary evidence and affirmed / undisputed testimony of the landlord's agents, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated April 02, 2014. The tenants did not pay the full amount of outstanding rent within 5 days of receiving the notice, and 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**.

As for compensation, I find that the landlord has established a claim of **\$8,925.00**:

\$2,500.00: *unpaid rent for April*
\$25.00: *fee assessed for late rent (clause #10 - tenancy agreement)*
\$2,500.00: *unpaid rent for May*
\$25.00: *fee assessed for late rent*
\$2,500.00: *unpaid rent for June*
\$25.00: *fee assessed for late rent*
\$1,250.00: *liquidated damages (clause #5 - tenancy agreement)*
\$100.00: *filing fee*

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, in part:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all of the above, I order that the landlord retain the security deposit and pet damage deposit in the combined total amount of **\$2,500.00** (\$1,250.00 + \$1,250.00), and I grant a **monetary order** in favour of the landlord for the balance owed of **\$6,425.00** (\$8,925.00 - \$2,500.00).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenants. 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$6,425.00**. Should it be necessary, this order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

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: June 24, 2014

Residential Tenancy Branch

