



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on April 14, 2014, by the Landlord to obtain an Order of Possession for unpaid rent or utilities and a Monetary Order for: unpaid rent or utilities and to recover the cost of the filing fee from the Tenants for this application.

The Landlord submitted evidence that each Tenant was served with copies of their application for dispute resolution, the Notice of hearing document, and their evidence, on April 17, 2014, by registered mail. Canada Post receipts were provided in the Landlord's evidence. The Landlord testified that all three packages were returned to her unclaimed so she attended the rental unit and personally served V.M. and J. D. with their packages. Based on the submissions of the Landlord, I find that V.M. and J.D. were sufficiently served with the hearing documents, in accordance with section 89 of the Act. I further find that N.M. was deemed served notice of this proceeding on April 22, 2014, five days after they were mailed, pursuant to section 90 of the Act. Accordingly, I continued with this proceeding in absence of the Tenants.

Issue(s) to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Is the Landlord entitled to a Monetary Order?

Background and Evidence

The Landlord submitted evidence that the Tenants entered into a month to month tenancy that began on November 1, 2013. Rent is payable on the first of each month in the amount of \$850.00. On November 1, 2013 the Tenants paid \$425.00 as the security deposit and on November 30, 2013, they paid \$200.00 as the pet deposit.

The Landlord testified that the Tenants had an outstanding balance owing of \$15.00 for March and \$450.00 that was due April 1, 2014. A 10 Day eviction notice was posted to the Tenants' door on April 3, 2014. Then on March 18, 2014 the Tenants paid \$175.00 which left an outstanding balance due of \$290.00.

In closing, the Landlord stated that the rental unit is still occupied and the Tenants have not paid June 2014 rent. Therefore, they are seeking an Order of Possess and a Monetary Order.

Analysis

When a tenant receives a 10 Day Notice to end tenancy for unpaid rent they have (5) days to either pay the rent in full or to make application to dispute the Notice or the tenancy ends.

In this case the Tenants are deemed to have received the 10 Day Notice on April 6, 2014, three days after it was posted to the door, and the effective date of the Notice is April 16, 2014.

The Tenants did not pay the rent in full and did not file an application to dispute the Notice; therefore, the Tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, **April 16, 2014**, and must vacate the rental unit to which the notice relates pursuant to section 46(5) of the *Act*. Accordingly, I approve the Landlord's request for an Order of Possession.

The Landlord claimed unpaid rent of \$290.00 that was due April 1, 2014, in accordance with section 26 of the *Act* which stipulates a tenant must pay rent in accordance with the tenancy agreement. Based on the aforementioned, I award the Landlord unpaid rent up to April 30, 2014, in the amount of **\$290.00**.

The Landlord has succeeded with their application; therefore, I award recovery of the **\$50.00** filing fee.

Conclusion

I HEREBY FIND the Landlord is entitled to an Order of Possession effective **Two (2) Days after service upon the Tenants**. This Order is legally binding and must be served upon the Tenants. In the event that the Tenants do not comply with this Order it may be filed with the Province of British Columbia Supreme Court and enforced as an Order of that Court.

The Landlord has been awarded a Monetary Order for **\$340.00** (\$290.00 + \$50.00). This Order is legally binding and must be served upon the Tenants. In the event that the Tenants do not comply with this Order it may be filed with the Province of British Columbia 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 06, 2014

Residential Tenancy Branch

