



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNSD MNDC FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

The landlord participated in the teleconference hearing, but the tenants did not call into the hearing. The landlord stated that she served the tenants with the application for dispute resolution and notice of hearing by registered mail sent in two separate packages on August 6, 2014. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I found that the tenants were deemed served with notice of the hearing on August 11, 2014, and I proceeded with the hearing in the absence of the tenants.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?
Is the landlord entitled to a monetary order?

Background and Evidence

The tenancy began in January 2013. Rent in the amount of \$1800 is payable in advance on the first day of each month, and does not include utilities. At the outset of the tenancy, the landlord collected a security deposit from the tenants in the amount of \$900. On May 8, 2014 the landlord served the tenants with written notice to pay utilities of \$437.77. The tenants failed to pay this amount and failed to pay rent in the month of July 2014 and on July 22, 2014 the landlord served the tenants with a notice to end tenancy for non-payment of rent or utilities. The tenants further failed to pay rent in the month of August 2014 and failed to pay further outstanding utilities of \$327.44.

The Landlord's evidence included the following:

- a copy of a residential tenancy agreement, signed by the tenant and the landlord on January 11, 2013, indicating a monthly rent of \$1800 due on the first of each month;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on July 21, 2014, with an effective vacancy date of August 4, 2014, for failure to pay rent in the amount of \$1800 that was due on July 2, 2014 and utilities of \$437.77;

- a proof of service of notice to end tenancy document showing that the tenants were personally served the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on July 22, 2014;
- copies of utilities bills; and
- a copy of the Landlord's Application for Dispute Resolution, filed August 6, 2014.

Analysis

I have reviewed all evidence and I accept that the tenants were served with the notice to end tenancy as declared by the landlord.

I accept the evidence before me that the tenants have failed to pay the rent or utilities owed within the five days granted under section 46(4) of the Act. I find that the tenants are conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. The landlord is therefore entitled to an order of possession.

As for the monetary order, based on the above-noted evidence I find that the landlord has established a claim for \$3600 in unpaid rent and lost revenue for July and August 2014, and \$765.21 for unpaid utilities. The landlord is also entitled to recovery of the \$50 filing fee.

Conclusion

I grant the landlord an order of possession effective two days from service. The tenants must be served with the order of possession. 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.

The landlord is entitled to \$4415.21. I order that the landlord retain the security deposit of \$900 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2515.21. This order may be 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: September 2, 2014

Residential Tenancy Branch

