



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Muks Kum Oi Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied 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 they served each tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on July 3, 2014. The landlord supplied testimony of the tracking numbers of the registered mail and stated that each envelope was collected on July 7, 2014.

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.

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's evidence was that this tenancy began on November 6, 2013, and that monthly rent is income based and at market rate, and in this case, the tenants' monthly rent obligation at market rate was \$1090 based upon the income information submitted by the tenants. The landlord submitted that the tenants did not pay a security deposit.

The landlord gave evidence that on June 6, 2014, the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by regular mail, listing unpaid rent of \$1780 as of June 1, 2014. The effective vacancy date listed on the Notice was June 21, 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 made rent payments of \$400 on June 9, \$350 on June 26, and \$200 on July 24, 2014, and as of the date of the hearing, the tenants owed \$3120 in unpaid rent.

I have no evidence before me that the tenants applied to dispute the Notice.

Analysis

Based on the oral and written evidence, I find the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice within five days of service and 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.

I therefore find that the landlord is entitled to an order of possession for the rental unit effective two days after service of the order upon the tenants.

I also find that the landlord is entitled to a monetary award of \$3170, comprised of outstanding rent of \$3120 through August, 2014, as was their request, and the \$50 filing fee paid by the landlord for this application.

Conclusion

The landlord's application has been granted.

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlord's Decision. Should the tenants fail to vacate the rental unit pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

The landlord has been granted a monetary award in the amount of \$3170.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$3170, which is 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: August 28, 2014

Residential Tenancy Branch

