



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This was a hearing with respect to the landlord's application for an order for possession and for a monetary order for unpaid rent and utilities. The hearing was conducted by conference call. The landlord called in and participated in the hearing. The tenants did not attend although they were served with the application for dispute resolution and Notice of Hearing by registered mail sent on July 7, 2014.

Issue(s) to be Decided

Is the landlord entitled to an order for possession?

Is the landlord entitled to a monetary award for unpaid rent and utilities and if so, in what amount?

Background and Evidence

The rental unit is a house in Kelowna. There is no written tenancy agreement. The landlord was approached by the respondent Mr. D.W.M. who wanted to rent his house. The landlord agreed to rent the house for a monthly rent of \$900.00 plus utilities commencing February 1, 2014. The tenant moved in and shared the house with Mr. C. L. until April, 2014 when the respondent, T.G. moved into the rental unit. T.G. moved in without the permission or approval of the landlord.

The tenants failed to pay rent for June and on June 17, 2014 the landlord served the tenant with a 10 day Notice to End Tenancy for unpaid rent by handing a copy to T.G. an occupant of the rental unit. The Notice to End Tenancy stated that the tenant failed to pay rent in the amount of \$900.00 that was due on June 1, 2014. The Notice to End Tenancy required the tenant and all other occupants to move out of the rental unit by

June 28, 2014. The tenant did not pay the sum of \$900.00 due for June and he did not apply to dispute the Notice to End Tenancy.

The landlord submitted copies of receipts for all of the payments received from the respondents. On May 28, 2014 the landlord received a partial rent payment for June in the amount of \$470.00. The landlord received a \$500.00 payment on May 28, 2014; it was applied to electricity, gas and water utilities outstanding in the total amount of \$505.31.

In the application for dispute resolution filed on July 2, 2014 the landlord claimed payment of the sum of \$1,770.00. The landlord did not explain how the amount was calculated. In a July 24th letter to the tenants the landlord set out the amounts due for utilities. The landlord also supplied copies of the utility bills. The total amount due for utilities as of July 24, 2014 was stated to be \$630.39. In addition to the amount due for utilities, the landlord has claimed unpaid rent for June, July, August and September.

The landlord claimed unpaid rent for June of \$430.00 and rent for July, August and September of \$2,700.00.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Order of Possession - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Monetary Order - I find that the landlord has established a total monetary claim of \$2,230.00 for the outstanding rent for June, July and August. I find that the landlord is entitled to recover \$450.00 on account of lost revenue for half of September for a total of \$2,680.00 for rent. The landlord's claim for unpaid utilities is allowed in the amount of \$630.00 and I find that the landlord is entitled to recover the \$50.00 filing fee for this

application for a total award of \$3,360.00 and I grant the landlord an order under section 67 in the said amount. 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 03, 2014

Residential Tenancy Branch

