



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Hollyburn Estates Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing concerns 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 / retention of the security deposit / and recovery of the filing fee.

The landlord's agent attended and gave affirmed testimony. The landlord testified that the application for dispute resolution and notice of hearing (the "hearing package") was served on each tenant by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking numbers for the registered mail. The Canada Post website informs that both items were "unclaimed by recipient," and that subsequently they were both "successfully returned to the sender."

Issue(s) to be Decided

Whether the landlord is entitled to 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 May 05, 2014 to May 31, 2015. Monthly rent of \$1,745.00 is due and payable in advance on the first day of each month, and a security deposit of \$872.50 was collected.

Arising from rent which was unpaid when due on August 01, 2014, the landlord issued a 10 day notice to end tenancy for unpaid rent dated August 11, 2014. The notice was served by way of posting on the unit door 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 August 21, 2014. Thereafter, 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 agent, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated August 11, 2014. The tenants did not pay the 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. Accordingly, 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 **\$5,360.00**:

\$1,745.00: <i>unpaid rent August</i>	\$25.00: <i>fee for late payment of rent</i>
\$1,745.00: <i>unpaid rent September</i>	\$25.00: <i>fee for late payment of rent</i>
\$1,745.00: <i>unpaid rent October</i>	\$25.00: <i>fee for late payment of rent</i>
	\$50.00: <i>filing fee</i>

I order that the landlord retain the security deposit of **\$872.50**, and I grant the landlord a **monetary order** for the balance owed of **\$4,487.50** (\$5,360.00 - \$872.50).

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 **\$4,487.50**. 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: October 21, 2014

Residential Tenancy Branch

