



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes For the tenant: RP, ERP, CNR, OLC, RR, MNDC
For the landlord: OPR, MNR, MNDS, MNDC, FF

Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the Residential Tenancy Act (the "Act").

The tenants applied for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), an order requiring the landlord to make repairs and emergency repairs to the rental unit, for an order requiring the landlord to comply with the Act, for an order allowing a reduction in rent, and a monetary order for money owed or compensation for damage or loss.

The landlord applied for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent, for authority to retain the tenant's security deposit, a monetary order for money owed or compensation for damage or loss, and for recovery of the filing fee paid for this application.

The landlords attended the hearing; the tenants did not attend.

The landlords testified that she served the tenants with her Application for Dispute Resolution and Notice of Hearing by registered mail on October 24, 2014. The landlord provided the Canada Post receipts showing the tracking number for the registered mail.

Based upon the submissions of the landlord, I find the tenants were served notice of the landlord's hearing and the landlord's application as required by section 89(1) of the Act and the hearing proceeded on the landlord's application in the tenants' absence.

Thereafter the landlord was provided the opportunity to present her evidence orally, refer to documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed the 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.

Procedural matter-Despite having their own application for dispute resolution set for hearing on this date and time, the application of the landlord and the Notice of these Hearings, the tenants did not appear. Therefore, pursuant to section 10.1 of the Rules, I dismiss the application of the tenant, without leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit, to authority to retain the tenants' security deposit, further monetary compensation, and to recover the filing fee paid for this application?

Background and Evidence

The landlord supplied a written tenancy agreement showing that this tenancy began on June 1, 2014, that monthly rent is \$1300, and that the tenants paid a security deposit of \$650 at the beginning of the tenancy. The landlord submitted further that she has returned \$325 from that deposit to the tenants.

The landlord gave evidence that on October 16, 2014, she served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, by leaving it personally with LD tenant, listing unpaid rent of \$3550 as of October 1, 2014. The effective vacancy date listed on the Notice was October 16, 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 tenants did file their application to dispute the Notice, but failed to attend the hearing on their application or otherwise submit proof that the rent was either paid or not owed.

The landlord supplied evidence that since the Notice was issued to the tenants, they have not paid any rent and that as of the date of the hearing, the tenants owed \$4850 in unpaid rent, as claimed in her application.

Analysis

Based on the oral and written evidence and on a balance of probabilities, I find as follows:

I find the landlord submitted sufficient evidence that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, did not pay the outstanding rent within 5 days of receiving the Notice and did not vacate the rental unit. Additionally the tenants did not appear at the hearing in support of their own application. I find 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.

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 accept that the tenants owe unpaid rent through the month of November 2014, in the amount of \$4850.

I also grant the landlord recovery of her filing fee paid for this application of \$50.

I therefore find that the landlord is entitled to a monetary award in the amount of \$4900, comprised of outstanding rent of \$3850 through November 2014, and the \$50 filing fee paid by the landlord for this application.

Conclusion

The tenants' application is dismissed due to their failure to attend the hearing and as I have granted the landlord's application.

The landlord's application is granted.

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlord's Decision and should be served upon the tenant. Should the tenants fail to vacate the rental unit pursuant to the terms of the order, this 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.

At the landlord's request, I allow the landlord to retain the tenants' security deposit of \$325 in partial satisfaction of her monetary award of \$4900 and I grant the landlord a

final, legally binding monetary order for the balance due pursuant to section 67 of the Act for the amount of \$4575, which is enclosed with the landlord's Decision.

Should the tenants fail to pay the landlord this amount without delay after the order has been served upon them, 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*.

Dated: November 19, 2014

Residential Tenancy Branch

