



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR; MNR

Introduction

This is the Landlord's application for an Order of Possession and a Monetary Order for unpaid rent.

The parties gave affirmed testimony at the Hearing.

The Landlord's agent testified that the Notice of Hearing documents and copies of the Landlord's documentary evidence were hand delivered to the Tenants on November 21, 2014. I described the contents of the Landlord's documentary evidence to the Tenant AB, who acknowledged service of the documents.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession and monetary award for unpaid rent?

Background and Evidence

Both parties gave testimony which was irrelevant to the Landlord's application. I have only recorded the relevant testimony in this Decision.

A copy of the tenancy agreement was provided in evidence, which was signed by the parties on October 27, 2014. Monthly rent is \$2,100.00, due on the first day of each month. The Tenants paid a security deposit in the amount of \$1,050.00.

The Tenants gave the Landlord a series of post-dated cheques, however the rent cheques for November, 2014, were returned to the Landlord "insufficient funds". The Landlord provided a copy of the notice from the bank in evidence along with the two cancelled cheques, each in the amount of \$1,050.00.

The Landlord issues two Notices to End Tenancy for Unpaid rent: one for the Tenant AB and one for the Tenant SB. The Landlord's agent testified that the Tenant AB's copy of

the Notice was hand delivered to AB on November 10, 2014 and that the Tenant SB's copy of the Notice was hand delivered to SB on November 12, 2014. The Tenant AB stated that she did not receive the Notice until November 11, 2014.

The Tenant AB stated that she paid her share of the rent in the amount of \$1,050.00. The Tenants have not filed an application to cancel the Notices.

Analysis

I accept that the Tenants received the Notices to End Tenancy by November 12, 2014. I also find that the Tenants did not pay the arrears in full, or file for dispute resolution, within 5 days of receiving the Notices. Therefore, pursuant to Section 46(5) of the Act, the Tenants are conclusively presumed to have accepted that the tenancy ended on November 22, 2014. I find that the Tenants are overholding and that the Landlord is entitled to an Order of Possession.

I accept the Landlord's testimony that the Tenant paid the security deposit in the amount of \$1,050.00 and that rent for the month of November, 2014, remains outstanding.

I find that the Landlord's agent has established a monetary claim for unpaid rent in the amount of \$2,100.00.

Pursuant to Section 72(2)(b) of the Act, the Landlord may apply the security deposit towards partial satisfaction of the Landlord's monetary award.

I hereby provide the Landlord with a Monetary Order, calculated as follows:

Unpaid rent for November, 2014	\$2,100.00
Less security deposit	- \$1,050.00
TOTAL AMOUNT DUE TO THE LANDLORD AFTER SET-OFF	\$1,050.00

Conclusion

I hereby provide the Landlord with an Order of Possession effective **2 days after service of the Order upon the Tenants**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlord with a Monetary Order in the amount of **\$1,050.00** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: December 18, 2014

Residential Tenancy Branch

