



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the tenant: CNR, CNC

For the landlord: OPR, MNR, 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 and a 1 Month Notice to End Tenancy for Cause.

The landlords applied for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent, a monetary order for money owed or compensation for damage or loss, and for recovery of the filing fee.

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

The landlords submitted that they served tenant CT with their Application for Dispute Resolution and Notice of Hearing by leaving the documents with her on November 12, 2014, and that they served tenant BT the same documents by registered mail on November 13, 2014.

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

Thereafter the landlords were provided the opportunity to present their 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 landlords and the Notices of these hearings, the tenants did not appear. Therefore, pursuant to section 10.1 of the Rules, I dismiss the application of the tenants, without leave to reapply.

Issue(s) to be Decided

Are the landlords entitled to an order of possession for the rental unit, monetary compensation, and to recovery of the filing fee paid for this application?

Background and Evidence

The landlords supplied a written tenancy agreement showing that this tenancy began on September 15, 2014, that monthly rent is \$1350, due on the 15th day of the month, and that the tenants were to make payments of \$55 per month towards the security deposit of \$675.

The landlords provided evidence that on October 28, 2014, they served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, by leaving it in the tenants' mailbox, listing unpaid rent of \$754.88 as of October 15, 2014. The effective vacancy date listed on the Notice was November 14, 2014. It is noted that \$55 of this amount was for a monthly installment payment towards the security deposit.

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 landlords supplied evidence that since the Notice was issued to the tenants, there were no further rent payments, and that as of the date of the hearing, the tenants owed \$2049.88 in unpaid rent, as they remain in the rental unit.

In addition to the unpaid rent, the landlords' monetary claim included two NSF charges of \$7.00 each, and recovery of the filing fee.

Analysis

I find the landlords submitted sufficient, undisputed evidence that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and that they owed the unpaid rent listed on the Notice. Additionally, although the tenants did file an

application in dispute of the Notice, they failed to attend the hearing to present evidence that the rent was not owed. I find the tenancy has ended due to the tenants' failure to pay rent.

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

I also grant the landlords recovery of their filing fee of \$50.

I dismiss the landlords' claim for NSF fees, as Residential Tenancy Regulation #7(2) requires that such a charge must be provided for in the written tenancy agreement, and in this case, it was not.

I therefore find that the landlords are entitled to a monetary award in the amount of \$2099.88, comprised of outstanding rent of \$2049.88 through December 15, 2014 and the \$50 filing fee paid by the landlords for this application.

The landlords were informed at the hearing that I have not granted the portion of their monetary claim for payment of the tenants' security deposit as this is a separate amount not related to monthly rent and is held in trust for the tenants during a tenancy.

Conclusion

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

The landlords' application is granted.

I grant the landlords a final, legally binding order of possession for the rental unit, which is enclosed with the landlords' Decision. Should the tenants fail to vacate the rental unit pursuant to the terms of the order after it has been served upon them, 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.

I grant the landlords a final, legally binding monetary order for the amount of their monetary award pursuant to section 67 of the Act for the amount of \$2099.88, which is enclosed with the landlords' Decision.

Should the tenants fail to pay the landlords 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: December 9, 2014

Residential Tenancy Branch

