



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wall Financial Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR MNDC FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent.

The landlord participated in the teleconference hearing, but the tenants did not call into the hearing. The landlord submitted evidence that they served the tenants with the application for dispute resolution and notice of hearing by registered mail sent on November 27, 2014. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I found that the tenants were deemed served with notice of the hearing on December 2, 2014, and I proceeded with the hearing in the absence of the tenants.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?
Is the landlord entitled to a monetary order?

Background and Evidence

The tenancy began on February 1, 2013. Rent in the amount of \$825 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenants in the amount of \$412.50. The tenants failed to pay \$570 of the rent in the month of November 2014 and on November 2, 2014 the landlord served the tenants with a notice to end tenancy for non-payment of rent. The tenants further failed to pay rent in the month of December 2014. The landlord has claimed unpaid rent for November and December 2014, as well as late fees, per the tenancy agreement, for those two months.

The Landlord's evidence included the following:

- a copy of a residential tenancy agreement, signed by the tenants and the landlord, indicating a monthly rent of \$825 due on the first of each month and confirming the security deposit of \$412.50;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on November 2, 2014, with an effective vacancy date of November 15, 2014, for failure to pay rent in the amount of \$570 that was due on November 1, 2014;
- a copy of a Proof of Service of Notice to End Tenancy document showing that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by attaching the notice on the rental unit door on November 2, 2014; and
- a copy of the tenants' ledger, showing the amounts of outstanding rent.

Analysis

I have reviewed all evidence and I accept that the tenants were served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on November 5, 2014.

I accept the evidence before me that the tenants failed to pay the rent owed within the five days granted under section 46(4) of the Act. I find that the tenants are conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. The landlord is therefore entitled to an order of possession.

As for the monetary order, based on the above-noted evidence I find that the landlord has established a claim for \$570 in unpaid rent and a \$20 late rent fee for November 2014, and \$825 in lost revenue for December 2014. The landlord may not charge a late rent fee for lost revenue, and I therefore dismiss that portion of the landlord's claim. The landlord is also entitled to recovery of the \$50 filing fee.

Conclusion

I grant the landlord an order of possession effective two days from service. The tenants must be served with the order of possession. 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.

The landlord is entitled to \$1465. I order that the landlord retain the security deposit of \$412.50 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1052.50. 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: December 23, 2014

Residential Tenancy Branch

