



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, to retain the security deposit and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that on March 23, 2015 at 9:30 p.m. copies of the Application for Dispute Resolution and Notice of Hearing were personally served to each tenant. Service took place at the rental unit and each tenant signed a proof of service document, confirming receipt of the documents. The landlord used a proof of service document meant to be utilized for service of a Notice ending tenancy.

These documents are deemed to have been served on the day of personal delivery in accordance with section 89 and 90 of the Act; however neither tenant appeared at the hearing.

Preliminary Matters

The landlord stated that the tenants vacated on April 6, 2015. An Order of possession is not required.

Issue(s) to be Decided

Is the landlord entitled to a monetary Order for unpaid rent?

May the landlord retain the security deposit paid by the tenants?

Background and Evidence

The tenancy commenced on December 1, 2014, rent was \$570.00 per month. A security deposit in the sum of \$285.00 was paid. A tenancy agreement was not signed.

On March 12, 2015 the landlord personally served the tenants a 10 day Notice ending tenancy for unpaid rent. The Notice was given to the tenants on that date. The Notice had an effective date of March 22, 2014.

The landlord said that the tenants have not paid rent since December 2014 resulting in a claim of \$2,280.00; less the security deposit.

The landlord has not yet attempted to re-rent the unit as the tenants caused damage.

Analysis

Section 90 of the Act stipulates that a document given personally is deemed served on the day of personal delivery. Therefore, I find that the tenants received the Notice to end tenancy on March 12, 2015.

Section 46(1) of the Act stipulates that a 10 day Notice ending tenancy is effective 10 days after the date that the tenant receives the Notice. As the tenants are deemed to have received this Notice on March 12, 2015, I find that the earliest effective date of the Notice is March 22, 2015.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice ending tenancy that required the tenant to vacate the rental unit on March 22, 2015, pursuant to section 46 of the Act.

Therefore, as the tenants did not pay the overdue rent and did not vacate until April 6, 2015, I find that the landlord is entitled to compensation in the sum of \$1,710.00 rent from January to March, 2015 inclusive. The landlord is entitled to a per diem rent from April 1 to 6, 2015 in the sum of \$112.44. The balance of the claim for unpaid rent is dismissed. The landlord is entitled to submit a claim for any loss of rent revenue beyond April 6, 2015.

I find that the landlord's application has merit and, pursuant to section 72 of the Act that the landlord is entitled to recover the \$50.00 filing fee from the tenants for the cost of this Application for Dispute Resolution.

Pursuant to section 72 of the Act, I find that the landlord is entitled to retain the \$285.00 security deposit in partial satisfaction of the claim.

Based on these determinations I grant the landlord a monetary Order for the balance of \$1,587.44. In the event that the tenants do not comply with this Order, it may be served on the tenants, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord is entitled to a monetary Order for unpaid rent and per diem rent totaling \$1,822.44. The balance of the claim is dismissed.

The landlord may retain the security deposit.

The landlord is entitled to filing fee costs.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 08, 2015

Residential Tenancy Branch

