



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter dealt with an application by the Landlord for An Order of Possession and a Monetary Order for unpaid rent.

It should be noted this hearing is a reconvened hearing of an application through the Direct Request process. The original application was adjourned because of inconsistencies between the tenancy agreement and the other documents in the Direct Request application. As the Direct Request application is an Ex Parte proceeding the information is required to be accurate with no interpretation. Any inconsistencies in a Direct Request application are adjourned to a participatory hearing. The inconsistencies were the spelling of the male Tenants name and the Landlord confirmed the tenancy information verbally.

The Landlord said he served the Tenants with the Application and Notice of Hearing (the "hearing package") by posting it on the door of the rental unit on March 26, 2015. Based on the evidence of the Landlord, I find that the Tenants were served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenants' absence.

At the start of the hearing the Landlord said he believes the Tenants have moved out but he is still requesting an Order of Possession.

Issues(s) to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

Background and Evidence

This tenancy started on February 1, 2014 as a month to month tenancy. Rent is \$1,200.00 per month payable in advance of the 1st day of each month. A security deposit of \$600.00 was paid at the start of the tenancy.

The Landlord said that the Tenants did not pay \$1,200.00 of rent for March, 2015 when it was due and as a result, on March 6, 2015 he posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated March 5, 2015 on the Tenants' door. The Landlord continued to say that the Tenants also have unpaid rent for April, 2015 of \$1,200.00.

The Landlord said his total claim is for two months of unpaid rent in the amount of \$2,400.00.

Further the Landlord said the Tenants left the rental unit in very poor condition and he will be making another application for damages and to retain the Tenants' security deposit.

Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a tenant must pay the overdue rent or apply for dispute resolution. If the tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenants are deemed to have received the Notice to End Tenancy three days after it is posted on the door of the rental unit, or on March 9, 2015. Consequently, the Tenants would have had to pay the amount stated on the Notice or apply to dispute that amount no later than March 14, 2015.

I find that the Tenants have not paid the overdue rent and have not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect on May 6, 2015.

I also find that the Landlord is entitled to recover unpaid rent for March and April, 2015 in the amount of \$1,200.00 for each month. I award a monetary Order to the Landlord in the amount of \$2,400.00.

Conclusion

An Order of Possession effective May 6, 2015 and a Monetary Order in the amount of \$2,400.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenants: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: May 06, 2015

Residential Tenancy Branch

