



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and money owed or compensation for damage or loss, for authority to retain the tenants' security deposit, and for recovery of the filing fee paid for this application.

The landlord and tenant "JB" attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process. The landlord submitted that she served each tenant with her application and notice of hearing via registered mail, and the tenant confirmed that both tenants received the landlord's application. I therefore find that tenant "TC" was also served by the landlord as required under section 89(1) of the Act.

Neither party raised any issue regarding service of the evidence or application.

Thereafter both parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all 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.

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Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, monetary compensation, and to recover the filing fee?

Background and Evidence

The landlord gave undisputed evidence that this tenancy began on April 1, 2014, monthly rent is \$965.00, and a security deposit of \$482.50 was paid by the tenants at the beginning of the tenancy.

The landlord gave undisputed evidence that on March 24, 2015, the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent ("Notice"), by leaving it with tenant TC, listing an unpaid rent deficiency owed as of \$1700.00 as of March 1, 2015. The effective vacancy date listed on the Notice was April 4, 2015.

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 landlord submitted that the tenants made a payment of \$300.00 on April 17, 2015, and \$400.00 on April 28, 2015; however, as of the date of the hearing, the tenants owed \$3895.00 in unpaid rent. The landlord supplied a copy of the receipts showing that the acceptance of the rent payments were on a for use and occupancy only basis.

I have no evidence before me that the tenants applied to dispute the Notice.

The tenant submitted that they have an agreement with the landlord to make payments and that they have attempted to make payments; however, the landlord has not answered the knocks on her door.

The tenant confirmed not filing an application for dispute resolution in dispute of the Notice.

The landlord denied having an agreement with the tenants for payments or that the tenants have made any efforts to make payments.

Analysis

I find the landlord submitted sufficient evidence to prove that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice within 5 days of service and are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I therefore find that the landlord is entitled to an order of possession for the rental unit effective 2 days after service of the order upon the tenants.

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlord's Decision. Should the tenants fail to vacate the rental unit pursuant to the terms of the order after being served, the 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 also find that the landlord is entitled to a monetary award of \$3945.00, comprised of outstanding rent and loss of rent revenue of \$3895.00 through June, 2015, as the tenants are now over holding in the rental unit after the effective end of tenancy listed on the Notice, and the \$50.00 filing fee paid by the landlord for this application.

At the landlord's request on their application, I allow the landlord to retain the tenants' security deposit of \$482.50 in partial satisfaction of their monetary award.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$3462.50, which is enclosed with the landlord's Decision.

Should the tenants fail to pay the landlord this amount without delay after being served the order, 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.

Conclusion

The landlord's application for an order of possession for the rental unit and a monetary order for unpaid rent has been granted.

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: June 18, 2015

Residential Tenancy Branch

