



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNDC, MNSD, FF
CNR

Introduction

This hearing was scheduled in response to 2 applications:

- i) by the landlords for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee; and
- ii) by tenant "SA" for cancellation of a notice to end tenancy for unpaid rent.

Landlord "AMC" and his agent, "MK" attended and gave affirmed testimony. Neither tenant appeared.

The landlords' agent testified that the application for dispute resolution and the notice of hearing (the "hearing package") was served by way of registered mail. Evidence provided includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "unclaimed by recipient." Based on the documentary evidence and the affirmed / undisputed testimony of the landlords' agent, I find that the tenants were served in compliance with sections 89 and 90 of the Act which speak, respectively, to **Special rules for certain documents** and **When documents are considered to have been received**.

The landlords' agent testified that while tenant "SA" sent her a copy of the notice of hearing by way of email attachment, the tenant did not serve the landlord with a copy of her application.

Issue(s) to be Decided

Whether either party is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the term of tenancy was from February 01, 2014 to January 31, 2015. Thereafter, tenancy has continued on a month-to-month basis. Monthly rent of \$1,150.00 is due and payable in advance on the first day of each month, and a security deposit of \$575.00 was collected.

Arising from rent which was unpaid when due on June 01, 2015 the landlords issued a 10 day notice to end tenancy for unpaid rent dated June 08, 2015. The notice was served in-person on that same date. A copy of the notice was submitted in evidence. Subsequently, the tenants have made no further payment toward rent and the tenants continue to reside in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord and the landlord's agent, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated June 08, 2015. The tenants did not pay the full amount of outstanding rent within 5 days of receiving the notice, and did not apply to dispute the notice. The tenants 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. Accordingly, I find that the landlords have established entitlement to an **order of possession**.

Following from all of the above, and in the absence of either tenant at the hearing scheduled in response to applications by both parties, tenant "SA's" application is hereby dismissed.

As to compensation, I find that the landlords have established a claim of **\$3,350.00**:

\$1,100.00: *unpaid rent for June*
\$1,100.00: *unpaid rent for July*
\$1,100.00: *unpaid rent for August*
\$50.00: *filing fee*

I order that the landlords retain the security deposit of **\$575.00**, and I grant the landlords a **monetary order** for the balance owed of **\$2,775.00** (\$3,350.00 - \$575.00).

Conclusion

I hereby issue an **order of possession** in favour of the landlords effective not later than **two (2) days** after service on the tenants. This order must be served on the tenants. 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlords in the amount of **\$2,775.00**. Should it be necessary, this order may be served on the tenants, 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: August 12, 2015

Residential Tenancy Branch

