



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR OPC OPB MNR MNSD FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord on June 8, 2015, seeking to obtain Orders of Possession for: unpaid rent or utilities; for cause; and for breach of an agreement. The Landlord also filed his application seeking a Monetary Order for: unpaid rent or Utilities; to keep all or part of the security and or pet deposit; and to recover the cost of the filing fee from the Tenants for this application.

The hearing was conducted via teleconference and was attended by the Landlord who gave affirmed testimony that he personally served both Tenants with copies of his application for Dispute Resolution and the Notice of hearing document on June 10, 2015, in the presence of a witness. Based on the submissions of the Landlord I find each Tenant was sufficiently served Notice of this proceeding in accordance with the Act. Therefore, I proceeded in absence of the Tenants.

Issue(s) to be Decided

1. Has the Landlord regained possession of the rental unit?
2. Has the Landlord proven entitlement to a Monetary Order for unpaid rent or utilities?

Background and Evidence

The Landlord submitted documentary evidence which indicated the Tenants entered into a written fixed term tenancy agreement that began on January 28, 2015 and was scheduled to end or switch to a month to month tenancy after July 31, 2015. Rent of \$900.00 was due on or before the first of each month and on January 28, 2015 the Tenants paid \$450.00 as the security deposit.

The Landlord conducted an inspection on the property issuing a report to the Tenants on April 29, 2015. When the Tenants failed to respond to his report, the Landlord personally served the Tenants with a 1 Month Notice to end tenancy for cause on May 27, 2015. Then when the Tenants failed to pay their June 1, 2015 rent the Landlord personally served them with a 10 Day Notice to end tenancy for unpaid rent on June 2, 2015. The Landlord submitted copies of each Notice into evidence.

The Landlord testified that the Tenants vacated the property and returned the keys on June 30, 2015; however, they did not pay the past due June 2015 rent of \$900.00 and refused to provide the Landlord with a forwarding address. As a result the Landlord withdrew his application for an Order of Possession and requested to proceed with his request for a Monetary Order for unpaid rent.

Analysis

After careful consideration of the foregoing, documentary evidence, and on a balance of probabilities I find as follows:

When a tenant receives a 10 Day Notice to end tenancy for unpaid rent they have (5) days to either pay the rent in full or to make application to dispute the Notice or the tenancy ends.

In this case the Tenants received the 10 Day Notice on June 2, 2015. Therefore, effective date of the Notice was **June 12, 2015**. The Tenants vacated the property as of June 30, 2015 without paying the outstanding rent. The Landlord regained possession and withdrew his request for an Order of Possession.

The Landlord claimed unpaid rent of \$900.00 that was due June 1, 2015, in accordance with section 26 of the Act which stipulates a tenant must pay rent in accordance with the tenancy agreement. Based on the aforementioned, I award the Landlord unpaid rent for June 1, 2015, in the amount of **\$900.00**.

Section 72(1) of the Act stipulates that the director may order payment or repayment of a fee under section 59 (2) (c) *[starting proceedings]* or 79 (3) (b) *[application for review of director's decision]* by one party to a dispute resolution proceeding to another party or to the director.

The Landlord has succeeded with their application; therefore, I award recovery of the **\$50.00** filing fee, pursuant to section 72(1) of the Act.

Monetary Order – I find that the Landlord is entitled to a monetary claim and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenant's security deposit plus interest as follows:

Unpaid Rent June 2015	\$ 900.00
Filing Fee	<u>50.00</u>
SUBTOTAL	\$ 950.00
LESS: Security Deposit \$450.00 + Interest 0.00	<u>-450.00</u>
Offset amount due to the Landlord	<u>\$ 500.00</u>

Conclusion

The Landlord withdrew his request for an Order of Possession and was successful with his application for a Monetary Order for the outstanding rent and filing. The monetary award was offset against the Tenants' security deposit leaving a balance owed to the Landlord in the amount of \$500.00.

The Landlord has been issued a Monetary Order for **\$500.00**. This Order is legally binding and must be served upon the Tenants. In the event that the Tenants do not comply with this Order it may be filed with the Province of British Columbia 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 04, 2015

Residential Tenancy Branch

