



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent and lost revenue. The landlord originally applied under the Direct Request process, but the adjudicator determined that the application was not appropriate for that process and ordered the matter set for a teleconference hearing.

The landlord participated in the teleconference hearing, but the tenants did not call into the hearing. The landlord stated that he personally served the tenants with the application for dispute resolution and notice of hearing on August 3, 2016. I accepted the landlord's testimony regarding service of the notice of the hearing, and I proceeded with the hearing in the absence of the tenants.

Preliminary Issue

At the outset of the hearing a participant to a different dispute called in to the teleconference hearing. I identified the correct time and date for that person to call in to their hearing, and the person then disconnected from the hearing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Background and Evidence

The tenancy began on April 1, 2015. The landlord stated that he took over the property and the tenancy after that time. The landlord also confirmed the rental unit address and indicated that rent in the amount of \$1,400.00 is payable in advance on the first day of

each month. At the outset of the tenancy, the tenants paid a security of \$700.00. The tenants failed to pay full rent in March 2016 and on March 26, 2016 the landlord served the tenants with a notice to end tenancy for non-payment of rent in the amount of \$2,200.00. The tenants have paid no rent since the notice to end tenancy was served.

The Landlord's evidence included the following:

- a copy of the residential tenancy agreement;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on March 26, 2016, with an effective vacancy date of April 6, 2016, for failure to pay rent in the amount of \$2,200.00;
- a monetary order worksheet indicating that the tenants failed to pay \$800.00 of the rent for March 2016 and no rent for April 2016;
- a Proof of Service document showing that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the notice on the rental unit door in the presence of a witness on March 26, 2016; and
- a copy of the Landlord's Application for Dispute Resolution, in which the landlord applied for an order of possession and a monetary order for outstanding rent of \$2,200.00.

Analysis

I have reviewed all evidence and I accept that the tenants were served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on March 29, 2016.

I accept the evidence before me that the tenants have failed to pay the rent owed within the five days granted under section 46(4) of the Act. I find that the tenants are conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on April 11, 2016, the corrected effective date of the notice. The landlord is therefore entitled to an order of possession.

As for the monetary order, I find as follows. There was contradictory evidence between the notice to end tenancy and the landlord's monetary order worksheet regarding whether the tenants owed \$800.00 for February or March 2016. However, based on the documents and the landlord's testimony I find that the accurate amount of rent that the tenants owe is \$800.00 for March 2016 and \$1,400.00 per month for the months of April through September 2016. The landlord is therefore entitled to \$9,200.00 in unpaid rent and lost revenue.

Conclusion

I grant the landlord an order of possession effective two days from service. The tenant must be served with the order of possession. 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.

The landlord is entitled to \$9,200.00. I order that the landlord retain the security deposit of \$700.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$8,500.00. This order may be 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: September 21, 2016

Residential Tenancy Branch