



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR; OPC; MNR; MNSD; FF

Introduction

This Hearing was scheduled to consider the Landlord's Application for Dispute Resolution. The Landlord seeks an Order of Possession; a monetary award for unpaid rent; to apply the security deposit towards his monetary award; and to recover the cost of the filing fee from the Tenants.

Both parties signed into the teleconference and gave affirmed testimony.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a monetary award for unpaid rent, and to apply the security deposit towards his monetary award?

Background and Evidence

The Landlord served the Tenants with a One Month Notice to End Tenancy for Cause on August 2, 2016, by handing the notice to the male Tenant at the rental unit. On August 16, 2016, the Landlord served the male Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent.

The Landlord served the female Tenant with the Notice of Hearing package on August 24, 2016, at 2:24 a.m., by handing the documents to the female Tenant. The Landlord served the male Tenant with the Notice of Hearing package on August 24, 2016, at 4:33 p.m., by handing the documents to the male Tenant.

This tenancy began in February, 2016. Monthly rent is \$850.00, due on the first day of each month. The Tenants paid a security deposit in the amount of \$425.00 at the beginning of the tenancy.

Analysis

The Tenant acknowledged that rent in the amount of \$1,700.00 remains outstanding.

Section 46 of the Act provides that if a tenant does not pay the rent or make an application for dispute resolution within 5 days of receipt of a notice to end tenancy for unpaid rent, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice. In this case, I find that the effective date of the notice was August 26, 2016, and that the Landlord is entitled to an Order of Possession.

The Landlord is also entitled to a monetary award in the amount of \$1,700.00 for unpaid rent. Pursuant to the provisions of Section 72 of the Act, the Landlord may deduct the security deposit from his monetary award.

The Landlord has been successful in his Application and I find that he is entitled to recover the cost of the filing fee.

The Landlord has established a Monetary Order, calculated as follows:

Unpaid rent	\$1,700.00
Recovery of the filing fee	\$100.00
Less set off of security deposit	<u>-\$425.00</u>
TOTAL	\$1,375.00

Conclusion

The Landlord is hereby provided with an Order of Possession **effective 2 days after service of the Order upon the Tenants**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord is hereby provided with a Monetary Order in the amount of **\$1,375.00**. This Order may be filed in the Provincial Court of British Columbia 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: October 17, 2016

Residential Tenancy Branch