



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

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

Introduction

This hearing dealt with two applications: 1) from the landlord for an order of possession, a monetary order for unpaid rent, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee; 2) from the tenants for cancellation of the notice to end tenancy, an order permitting the tenants to reduce rent for services agreed upon but not provided, and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the landlord is entitled to an order of possession and / or a monetary order under the Act
- Whether the tenants are entitled to cancellation of the notice to end tenancy, an order (as above) and / or recovery of the filing fee

Background and Evidence

Pursuant to a written residential tenancy agreement, the term of this tenancy is from April 1, 2009 to April 1, 2010. Rent in the amount of \$825.00 is payable on the first day of the month and a security deposit of \$412.50 was collected on March 25, 2009.

The tenants' rent cheque for April 2009 was NSF. Subsequently, the landlord issued a 10 day notice to end tenancy for unpaid rent dated May 8, 2009. A copy of the 10 day notice was submitted into evidence and the tenant acknowledged his receipt of same. The tenant does not dispute that rent is presently still outstanding for April, May and June 2009 in the total amount of \$2,475.00 (3 x \$825.00).

During the hearing the tenant presented no argument in support of the application for an order permitting the tenants to reduce rent for services agreed upon but not provided.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent. While the tenants applied to dispute the notice, they acknowledge that rent is overdue for 3 months in the total amount of \$2,475.00. Accordingly, pursuant to section 55 of the Act I find that the landlord is entitled to an order of possession.

No argument was presented by the tenants in support of an application for an order to reduce the rent; I therefore find that the landlord has established a claim in the full amount of overdue rent totaling \$2,475.00. As the landlord has been successful in this application, I find the landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the security deposit of \$412.50 and I grant the landlord a monetary order for the balance of \$2,112.50 (\$2,525.00 - \$412.50).

All aspects of the tenants' application are hereby dismissed.

Conclusion

Pursuant to all of the above, I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service upon 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.

I hereby grant the landlord a monetary order under section 67 of the Act for **\$2,112.50**. This order must be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: June 16, 2009

Dispute Resolution Officer