



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application requesting an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent and utilities, and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on November 24, 2011, between 6 and 7 p.m., the tenants were each given copies of the Application for Dispute Resolution and Notice of Hearing at the rental unit; both landlord's were present. The tenants reside in a basement suite; the landlords live upstairs.

These documents are deemed to have been served in accordance with section 89 of the Act; however the tenants did not appear at the hearing.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Is the landlord entitled to a monetary Order for unpaid rent?

Is the landlord entitled to filing fee costs?

Background and Evidence

A copy of the tenancy agreement and addendum signed by the parties on June 9, 2011, was submitted as evidence. The agreement requires the tenants to pay \$1,000.00 rent on the first day of each month. A security and pet deposit was to be paid; the tenants did not provide payment.

The addendum requires the tenants to pay \$80.00 per month hydro costs; the amount owed was to be adjusted annually, based on billing.

The landlord stated that on November 13, 2011, a Ten (10) Day Notice to End Tenancy for non-payment of rent, which had an effective date of November 23, 2011, was personally served by both landlords, at the rental unit in the early evening. The male tenant accepted the Notice.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$4,100.00 rent plus \$400.00 utility costs within five days after the tenants were assumed to have received the Notice. The Notice also indicated that the tenants were presumed to have accepted that the tenancy was ending and that the tenants must move out of the rental by the date set out in the Notice unless the tenants filed an Application for Dispute Resolution within five days.

The tenants paid June, 2011, rent and \$900.00 of July, 2011, rent owed. A copy of an October 15, 2011, note, signed by the tenants on October 19, 2011, was submitted as evidence. The note indicated that the tenants acknowledged owing \$4,020.00 in rental arrears and that they intended to pay the landlord. Currently the landlord is owed utility costs in the sum of \$480.00 and rent in the sum of \$5,100.00; between July and December, 2011, inclusive.

Analysis

In the absence of evidence to the contrary, I find that the tenants were served with a Notice to End Tenancy that required the tenants to vacate the rental unit on November 23, 2011, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the tenants exercised either of these rights; therefore, pursuant to section 46(5) of the Act, I find that the tenants accepted that the tenancy has ended. On this basis I will grant the landlord an Order of Possession that is effective 2 days after service to the tenants.

In the absence of evidence to the contrary, I find that the tenants have not paid rent in the amount of \$5,100.00; plus \$480.00 in utility costs from July to December, 2011, inclusive, and that the landlord is entitled to compensation in those amounts.

I find that the landlord's application has merit and that the landlord is entitled to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

Conclusion

The landlord has been granted an Order of Possession that is effective 2 days after service to the tenants. This Order may be served on the tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim, in the amount of \$5,630.00, which is comprised of unpaid rent and utilities from July to December, 2011, inclusive and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution.

Based on these determinations I grant the landlord a monetary Order in the sum of \$5,630.00. In the event that the tenants do not comply with this Order, it may be served on the tenants, 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: December 15, 2011.

Residential Tenancy Branch