



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MND, MNR, MNSD, MNDC, O, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order for damages, a monetary order for unpaid rent, to keep all or part of the security deposit, money owed or compensation due to damage or loss, other and recovery of the filing fee.

The landlord participated in the conference call hearing but the tenants did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing by registered mail. I found that the tenants had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

This tenancy began prior to the landlord's ownership of the rental property, the landlord holds a security deposit of \$200.00.

On February 7, 2012 the tenants gave the landlord written notice to end the tenancy effective March 31, 2012.

On March 2, 2012 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent, the tenants have not filed to dispute this notice.

The landlord testified that the tenants currently owe the landlord \$637.50 in unpaid rent for March 2012. The landlord stated that the tenants have removed most of their belongings out of the rental unit and there is now only garbage in the rental unit. The landlord stated that the tenants still have keys to the rental unit and retain possession of the rental unit.

The landlord stated that the tenants have caused an excessive amount of damage throughout the rental unit including but not limited to cracked tiles and severe water damage.

The landlord in this application is seeking an order of possession for unpaid rent, \$637.50 in unpaid rent and \$4200.00 in damages.

Analysis

Based on the documentary evidence and testimony of the parties I find that the tenant was properly served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession and a monetary order for unpaid rent.

Accordingly I find that the landlord is entitled to a monetary order for \$637.50.

In regards to the landlord's claim for damages, the landlord at this time has not suffered a financial loss in regards to the repairs required for the property and until such time as the landlord has possession of the rental unit to complete the required repairs, the landlord will not be able to move forward with their claim.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I hereby grant the landlord an **Order of Possession**, effective **2 days** after service of the Order upon the tenant(s). This Order must be served on the tenant(s) and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$637.50 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep the tenant's \$200.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$487.50**.

If the amount is not paid by the tenant(s), the Order may be filed in the Provincial (Small Claims) 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: March 26, 2012

Residential Tenancy Branch