Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC Housing Commission
and [tenant name suppressed to protect privacy]

DECISION

<u>Dispute Codes</u>   OPR, MNR, FF

<u>Introduction</u>

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent

The landlord testified each tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on June 26, 2013 in accordance with Section 89. The landlord also testified she had confirmed through tracking information the tenants received this package on July 8, 2013.

Based on the testimony of the landlord, I find that the tenants have been sufficiently served with the documents pursuant to the *Act*.

<u>Issue(s) to be Decided</u>

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 of the *Act.*

<u>Background and Evidence</u>

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on September 7, 2012 for a month to month tenancy beginning on September 1, 2012 for the monthly rent of $679.00 due on the 1st of each month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on June 10, 2013 with an effective vacancy date of June 25, 2013 due to $1,326.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the months of May and June 2013 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent mailing it to the tenants on June 10, 2013. The landlord also submits that subsequently the tenants paid $947.00 on July 2, 2013 leaving a current balance of $411.00. The landlord testified a receipt for use and occupancy only was issued to the tenants.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on June 15, 2013 and the effective date of the notice was June 25, 2013. I accept the evidence before me that the tenants failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenants are conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **$461.00** comprised of $411.00 rent owed and the $50.00 fee paid by the landlord for this application.

This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: July 25, 2013

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Residential Tenancy Branch