



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was scheduled to be considered by way of Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* (the “Act”), and dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession and a Monetary Order. On November 29, 2013, an Interim Decision was issued, which should be read in conjunction with this Decision.

On November 29, 2013, this matter was adjourned to a participatory Hearing for the purpose of determining when rent is due under the tenancy agreement.

The male Tenant and the Landlord attended the participatory Hearing on January 9, 2014, and gave affirmed testimony.

Preliminary Matters

The Tenants provided documentary evidence with respect to the Landlord’s application. The direct request proceeding was described to the male Tenant, who agreed that the Tenants received the Notice to End Tenancy on November 2, 2013, and that the Tenants have not paid rent for November and December, 2013, or for January, 2014. The male Tenant testified that the Tenants have found a new place to live, effective January 16, 2014.

With the male Tenant’s consent, I allowed the Landlord to amend her Application to include a request for compensation for loss of revenue for the months of December, 2013, and January, 2014.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and Monetary Order?

Background and Evidence This tenancy began on August 15, 2013. Monthly rent is \$1,450.00. The parties agreed that rent is due the first day of each month. The parties disagree with respect to whether or not a security deposit was provided at the beginning of the tenancy.

On November 2, 2013, the Landlord served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by posting the Notice on the Tenants' door at the rental unit. A copy of the Notice was provided in evidence. The male Tenant testified that he received the Notice on November 2, 2013, and that the Tenants did not file an Application to dispute the Notice.

The Landlord testified that the Tenants have not paid any of the outstanding rent, or any rent for the months of December, 2013 and January, 2014. The male Tenant agreed.

Analysis

Based on the testimony of both parties, I find that the Tenants received the Notice on November 2, 2013. The Tenants did not pay all of the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to Section 46(5) of the Act, the Tenants are conclusively presumed to have accepted that the tenancy ended on November 12, 2013. Therefore, I find that the Landlord is entitled to an Order of Possession and a monetary award for unpaid rent and loss of revenue, in the amount of \$4,350.00 (\$1,450.00 x three months).

I make no findings or orders with respect to the security deposit, or whether it has been paid. If a security deposit was paid, it must be applied in accordance with the provisions of the Act.

Conclusion

I hereby grant the Landlord 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.

I hereby grant the Landlord a Monetary Order in the amount of **\$4,350.00** for service upon the Tenants. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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: January 09, 2014

Residential Tenancy Branch

