



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC OPR OPB MNR MNSD FF

Introduction

This hearing dealt with applications by the landlord and the tenants. The landlord applied for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenants applied to cancel a notice to end tenancy. The landlord participated in the teleconference hearing, but the tenants did not call into the hearing.

This matter was set for hearing by telephone conference call at 9:30 a.m. on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the landlord. Therefore, as the tenant did not attend the hearing by 9:40 a.m., and the landlord appeared and was ready to proceed, I dismiss the tenants' claim without leave to reapply.

The landlord stated that he served the tenants with their application for dispute resolution and notice of hearing by registered mail sent on January 12, 2015. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I found that the tenants were deemed served with notice of the hearing on January 17, 2015, and I proceeded with the hearing in the absence of the tenants.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Background and Evidence

The tenancy began on December 1, 2104. Rent in the amount of \$730 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord

collected a security deposit from the tenants in the amount of \$365. The tenants failed to pay rent in the month of January 2015 and on January 2, 2015 the landlord served the tenants with a notice to end tenancy for non-payment of rent.

The Landlord's evidence included the following:

- a copy of a residential tenancy agreement, indicating a monthly rent of \$730 due on the first of each month and confirming that the tenants paid a security deposit of \$365;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on January 2, 2105, with an effective vacancy date of January 12, 2015, for failure to pay rent in the amount of \$730 that was due on January 1, 2015;
- testimony that the tenants were personally served the 10 Day Notice to End Tenancy for Unpaid Rent on January 2, 2105; and
- a copy of the Landlord's Application for Dispute Resolution, filed January 12, 2015.

Analysis

I have reviewed all evidence and I accept that the tenants were served with the notice to end tenancy as declared by the landlord.

I accept the evidence before me that the tenants have failed to pay the rent owed within the five days granted under section 46(4) of the Act. I find that 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. The landlord is therefore entitled to an order of possession.

As for the monetary order, based on the above-noted evidence I find that the landlord has established a claim for \$730 in unpaid rent. The landlord is also entitled to recovery of the \$50 filing fee.

Conclusion

The tenants' application is dismissed.

I grant the landlord an order of possession effective two days from service. The tenant must be served with the order of possession. Should the tenant 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.

The landlord is entitled to \$780. I order that the landlord retain the security deposit of \$365 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$415. This order may be filed in the 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: January 21, 2015

Residential Tenancy Branch

