



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. The landlord attended and gave affirmed testimony. Tenant ``KW`` also attended and gave affirmed testimony, however, tenant ``KW's`` attendance was for a limited portion of the hearing as he declared his need to return to work. Tenant ``KW`` did not dispute any aspect of the landlord's application or affirmed testimony.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement this tenancy began on or about June 15, 2014. Monthly rent of \$1,550.00 is due and payable in advance on the first day of each month, and a security deposit of \$775.00 was collected.

Arising from rent of \$1,925.00 which remained unpaid when due on August 01, 2015, pursuant to section 46 of the Act which addresses **Landlord's notice: non-payment of rent**, the landlord issued a 10 day notice to end tenancy dated August 10, 2015. The notice was served by way of posting to the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate the unit is August 20, 2015. Subsequently, the tenants made the first of several installment payments toward rent on August 20, 2015 in the amount of \$300.00. The landlord testified that, thereafter, by way of continued installment payments the tenants eventually paid rent in full to October 31, 2015. The landlord also testified that in exchange for the above installment payments, receipts were issued with a notation to the effect of *for use and occupancy only*. While the tenants still reside in the unit, they have made no payment toward rent which was due on November 01, 2015.

Analysis

Based on the documentary evidence and the affirmed testimony of the parties, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated August 10, 2015. The tenants did not pay the full amount of outstanding rent within 5 days of receiving the notice, and did not apply to dispute the notice. The tenants are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an **order of possession**. As to compensation, I find that the landlord has established a claim of **\$825.00**:

\$775.00: *unpaid rent from November 01 to 15, 2015* ($\$1,550.00 \div 2$)

\$50.00: filing fee

I order that the landlord retain the security deposit of **\$775.00**, and I grant the landlord a **monetary order** for the balance owed of **\$50.00** ($\$825.00 - \775.00). The landlord's application for a monetary order as compensation for unpaid rent for the period from November 16 to 30, 2015 is hereby dismissed with leave to reapply.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenants. This order must be served on the tenants. Should the tenants 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$50.00**. Should it be necessary, this order may be served on the tenants, 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: November 02, 2015

Residential Tenancy Branch

