



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR; MNR; FF

Introduction

This is the Landlord's Application for Dispute Resolution seeking an Order of Possession; a Monetary Order for unpaid rent and utilities; and to recover the cost of the filing fee from the Tenant.

This matter was scheduled to be heard at 11:00 a.m., October 26, 2016. The Landlord signed into the Hearing; however, the Tenants did not. The Hearing remained open for 12 minutes.

The Landlord gave affirmed testimony at the Hearing. He testified that He served the Tenant with the Notice of Hearing Documents and copies of her documentary evidence by handing the documents to the Tenants on September 12, 2016.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a monetary award?

Background and Evidence

The Landlord testified that:

- Monthly rent is \$1,500.00, due on the first day of each month.
- Rent does not include utilities.
- The Tenants pay 70% of utilities.
- The Tenants paid a security deposit in the amount of \$750.00.

The Landlord testified that he served the Tenants with a Notice to End Tenancy for Unpaid Rent and Utilities by handing the Notice to the Tenants at the rental unit on August 30, 2016. A copy of the Notice was provided in evidence.

The Landlord stated that the Tenants have not paid any rent or utilities for August, September and October, 2016. The Landlord stated that he did not provide copies of utility bills for September and October, 2016 yet.

Analysis

I accept the Landlord's undisputed affirmed testimony in its entirety.

The Tenants did not pay the outstanding rent or make application to cancel the Notice to End Tenancy within 5 days of receipt of the Notice. Therefore, further to the provisions of Section 46 of the Act, I find that the Tenants are conclusively presumed to have accepted that the tenancy ended on September 9, 2016. I find that the Landlord is entitled to an Order of Possession.

With respect to the unpaid rent, I find that the Landlord is entitled to a monetary award of \$4,500.00 for 3 months' rent. I dismiss the Landlord's application for a monetary award for unpaid utilities, with leave to reapply.

The Landlord has been successful in his Application and I find that he is entitled to recover the cost of the \$100.00 filing fee from the Tenants.

Pursuant to the provisions of Section 72 of the Act, the Landlord may deduct the security deposit from his monetary award.

The Landlord is entitled to a Monetary Order, calculated as follows:

Outstanding rent	\$4,500.00
Recovery of the filing fee	\$100.00
Set off of security deposit	<u>-\$750.00</u>
TOTAL	\$3,850.00

Conclusion

I hereby provide the Landlord with 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 provide the Landlord with a Monetary Order in the amount of **\$3,850.00** for service upon the Tenants. This Order may be filed in the Provincial Court of British Columbia (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: October 26, 2016

Residential Tenancy Branch

