



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing dealt with 2 applications: i) by the landlord for an order of possession / a monetary order as compensation for unpaid rent or utilities / retention of the security deposit / and recovery of the filing fee; ii) by the tenant for cancellation of a notice to end tenancy / and authority to reduce rent for repairs, services or facilities agreed upon but not provided. Both parties participated in the hearing and gave affirmed testimony.

During the hearing the tenant consented to the landlord's request to amend the original application to include retention of the security deposit.

Issues to be decided

- Whether either party is entitled to any of the above under the Act

Background and Evidence

There is no written tenancy agreement in evidence for this month-to-month tenancy which began on September 10, 2010. Monthly rent is \$700.00, and is due and payable on the first day of each month. A security deposit of \$350.00 was collected.

Arising from rent which was unpaid when due on June 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent dated June 3, 2011. The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenant has made no payment toward rent and testified that her intention is to vacate the unit and remove all of her possessions as soon as possible.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated June 3, 2011. While the tenant applied to dispute the notice within 5 days of receiving the notice, she did not pay the outstanding rent within 5 days of receiving it, and she does not dispute that the rent remains unpaid for June. The tenant is 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 is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim of \$750.00, which is comprised of \$700.00 in unpaid rent for June 2011, in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$350.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$400.00 (\$750.00 - \$350.00).

Conclusion

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

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$400.00**. This order may be served on the tenant, 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*.

DATE: June 29, 2011

Residential Tenancy Branch