



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, OPC, MNR, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, a monetary order for unpaid rent and for money owed or compensation for damage or loss, to retain the tenant's security deposit and to recover the filing fee.

The landlord testified that he served the tenant with the Application for Dispute Resolution and Notice of Hearing by personal delivery on October 14, 2011; however, the tenant did not appear at the hearing. The landlord successfully demonstrated sufficient delivery of the documents under Section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord appeared, gave affirmed testimony and was provided the opportunity to present his evidence orally and in documentary form prior to the hearing, and make submissions to me.

Issue(s) to be Decided

Has the tenant breached the Residential Tenancy Act (the "Act") or tenancy agreement, entitling the landlord to an Order of Possession and monetary relief?

Background and Evidence

This one year, fixed term tenancy began on June 1, 2011, monthly rent is \$775.00, payable on the first day of each month, and a security deposit of \$387.50 was paid by the tenant on or about June 1, 2011.

The landlord testified that the tenant was served with a 1 Month Notice to End Tenancy for Cause (the "Notice") on September 27, 2011, by personal delivery. The Notice explains that the tenant had ten days to dispute the Notice. It also explains that if the tenant does not file an Application to Dispute the Notice within ten days, then the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the

rental unit by the effective date of the Notice. I note the effective date indicated on the Notice is ineffective and automatically corrects under the Act to October 31, 2011.

I have no evidence before me that the tenant filed an Application to dispute the Notice.

The Notice was served on the tenant because the landlord alleges the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord, significantly interfered with or unreasonable disturbed another occupant or the landlord, and engaged in illegal activity that is adversely affecting the quiet enjoyment of another occupant or the landlord.

The landlord provided evidence and gave affirmed testimony that the tenant has created such a significant noise disturbance with loud banging, screaming and constant fighting such that other occupants are unreasonable disturbed at unreasonable hours.

Additionally, the landlord submitted that the police have attended the rental unit and residential property on numerous occasions due to the complaints made against the tenant. The landlord submitted that as recently as the night and the weekend before the hearing, the police attended the residential property due to the acts of the tenant.

The landlord testified that the tenant has not paid rent for October or November, and owes unpaid rent of \$1,550.00.

Analysis

Based on the testimony, evidence, and on a balance of probabilities, I find as follows:

The tenant did not apply to dispute the Notice and is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I therefore find that the landlord is entitled to an order of possession effective 2 days after service on the tenant.

I am enclosing an Order of Possession with the landlord's Decision. This Order is a **legally binding, final Order**, and may be filed in the Supreme Court of British Columbia should the tenant fail to comply with this Order of Possession.

I find that the landlord has established a total monetary claim of **\$1,600.00** comprised of **\$1,550.00** in unpaid rent for October and November 2011, and the **\$50.00** fee paid by the landlord for this application.

I order that the landlord retain the deposit of **\$387.50** in partial satisfaction of the claim and I grant the landlord an order pursuant to section 67 of the Act for the balance due of **\$1,212.50**.

I am enclosing a monetary order for **\$1,212.50** with the landlord's Decision. This order is a **legally binding, final order**, and it may be filed in the Provincial Court of British Columbia (Small Claims) should the tenant fail to comply with this monetary order.

Conclusion

The tenant did not file to dispute the Notice to End Tenancy for Cause. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy. Additionally the tenant failed to pay rent.

The landlord is granted an Order of Possession, may keep the security deposit in partial satisfaction of the claim and is granted a monetary order for the balance due of \$1,212.50.

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 04, 2011.

Residential Tenancy Branch