



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 dealt with an Application for Dispute Resolution by the landlords for an order of possession, a monetary order and to recover the filing fee.

The parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in documentary form, 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 landlords to an Order of Possession and monetary relief?

Background and Evidence

The landlord submitted evidence and testified that this one year, fixed term tenancy began on March 15, 2010, continued thereafter on a month to month basis, monthly rent is \$900.00, and a security deposit and pet damage deposit of \$450.00 each was paid by the tenant at the beginning of the tenancy, on or about March 2, 2010.

The landlord gave affirmed testimony and supplied evidence that the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the “Notice”) on October 3, 2011, by posting on the door. The Notice stated the amount of unpaid rent was \$800.00 + \$25.00 for a late charge. Documents served in this manner are deemed served three days later under section 90 of the Act. Thus the effective vacancy date of October 13, 2011, listed on the Notice is automatically corrected to October 16, 2011.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the tenant had five days to dispute the Notice.

The landlord provided evidence and gave affirmed testimony that the tenant has made partial payments of rent, including the final October payment on November 2, 2011, and

currently owes unpaid rent of \$850.00 through the date of the hearing. The landlord is also requesting \$50.00 for late charges for October and November 2011.

The tenant acknowledged owing the unpaid rent and stated she would like to work with the landlord to pay off the balance and maintain the tenancy.

Analysis

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

The tenant has not paid the outstanding rent and did not apply to dispute the Notice and 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.

I find that the landlords are entitled to an order of possession effective **two days** after service on the tenant.

I am enclosing an order of possession with the landlords' 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 landlords have established a total monetary claim of **\$950.00** comprised of outstanding rent of **\$850.00**, **\$50.00** for late charges for October and November 2011, and the **\$50.00** filing fee paid by the landlords for this application.

At the landlords' request, I allow the landlords to retain the tenant's security deposit of **\$450.00** and pet damage deposit of **\$450.00** in partial satisfaction of the claim and I grant the landlords a monetary order under authority of section 67 of the Act for the balance due of **\$50.00**.

I am enclosing a monetary order for **\$50.00** with the landlords' Decision. This order is a **final, legally binding order**, and may be filed in the Provincial Court of British Columbia (Small Claims) should the tenant fail to comply with this monetary order.

Conclusion

The landlords are granted an Order of Possession, may keep the tenant's security deposit and pet damage deposit in partial satisfaction of the claim and are granted a monetary order for **\$50.00**.

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 08, 2011.

Residential Tenancy Branch