



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MND, MNSD, O

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord only.

The landlord testified the tenant was served with a copy of this Application and notice of hearing documents by registered mail on November 29, 2011. I accept the tenant was sufficiently served with notice of this hearing.

At the outset of the hearing the landlord withdrew the portions of his Application seeking compensation for cleaning; furniture removal and rekeying and fob replacement. I amend the landlord's Application to exclude these matters.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted the following relevant documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on September 23, 2011 for a month to month tenancy beginning on October 1, 2011 for the monthly rent of \$1,275.00 due on the 1st of each month and a security deposit of \$637.50 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on November 10, 2011 with an effective vacancy date of November 21, 2011 due to \$1,275.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the months of November and December 2011 and that the tenant was

served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on November 10, 2011.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on November 13, 2011 and the effective date of the notice is amended to November 23, 2011, pursuant to Section 53 of the *Act*. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenant is conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$2,600.00** comprised of \$2,550.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$637.50 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$2,127.32**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: December 12, 2011.

Residential Tenancy Branch