



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPC, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / retention of the security deposit / and recovery of the filing fee. The landlord attended the hearing and gave affirmed testimony.

Despite being served by way of registered mail with the application for dispute resolution and notice of hearing (the "hearing package"), the tenants did not appear. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail.

Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the month-to-month tenancy began on November 5, 2011. Monthly rent of \$675.00 is payable in advance on the first day of each month, and a security deposit of \$337.50 was collected.

The landlord served a 1 month notice to end tenancy for cause dated November 30, 2011. The notice was served on the tenants by way of posting on their door on that same date. A copy of the notice was submitted in evidence. Reasons shown on the notice for its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

significantly interfered with or unreasonably disturbed another occupant or the landlord

seriously jeopardized the health or safety or lawful right of another occupant or the landlord

Tenant has engaged in illegal activity that has, or is likely to:

adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

In summary, the landlord testified that in spite of the indication on the advertisement for the unit that no smoking is permitted, and in spite of agreement between the parties to that effect at the time when the tenancy was entered into, the tenants have persisted in smoking tobacco and an allegedly illegal substance in the unit and adjacent to the unit.

The tenants did not file an application to dispute the notice and they continue to reside in the unit. Further, since service of the notice the tenants have declined to pay any rent for the month of December 2011.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenants were served with a 1 month notice to end tenancy for cause dated November 30, 2011. The tenants did not file an application to dispute the notice within the 10 day period available for doing same. The tenants are therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ends on the effective date of the notice which is December 31, 2011. Accordingly, I find that the landlord has established entitlement to an order of possession.

I further find that the landlord has established entitlement to a monetary order in the amount of \$725.00. This is comprised of \$675.00 in unpaid rent for December 2011, in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$337.50, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$387.50 (\$725.00 - \$337.50).

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than 1:00 p.m., Saturday, December 31, 2011. This order must be served on the tenants.

Should the tenants 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 **\$387.50**. Should it be necessary, this order may be served on the tenants, 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*.

Dated: December 21, 2011.

Residential Tenancy Branch