



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, OPR, 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 money owed or compensation for damage or loss, authority to retain the tenant's security deposit, and to recover the filing fee.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on December 20, 2011, the tenant did not appear. The landlord's agent testified that the tenant was served via registered mail to the address at which the tenant resides, provided testimony of the tracking number for the registered mail envelope and successfully demonstrated sufficient delivery of the documents under Section 89 of the Residential Tenancy Act (the "Act"). Thus the hearing proceeded in the tenant's absence.

The landlord's agent appeared, gave affirmed testimony and was provided the opportunity to present his 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 landlord to an Order of Possession and monetary relief?

Background and Evidence

The landlord testified that this 6 month, fixed term tenancy began on September 1, 2010, monthly rent is \$800.00, and a security deposit of \$400.00 was paid by the tenant at the beginning of the tenancy, on or about September 1, 2010.

The landlord gave affirmed testimony and supplied evidence that on December 2, 2011, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by posting on the door. The Notice stated the amount of unpaid rent was \$810.00. The effective vacancy date listed on the Notice was December 15, 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.

I have no evidence before me that the tenants applied to dispute the Notice. The landlord gave affirmed testimony that the tenant did pay the full amount listed as unpaid rent on the Notice, but did not do so until December 19, 2011, with a receipt being issued indicating "For Use and Occupancy Only."

The landlord stated that the amount requested as unpaid rent, \$810.00, includes a \$10.00 storage locker fee. Additionally, the landlord stated that the tenant failed to pay rent due on January 1, 2012, and now owes \$810.00.

Analysis

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

The tenant did not pay the outstanding rent within five (5) days of receiving the Notice and did not apply to dispute the Notice. 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.

I find that the landlord is entitled to an order of possession effective **two 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 **\$850.00** comprised of outstanding rent of **\$800.00** and the **\$50.00** filing fee paid by the landlord for this application. I decline to grant the landlord monetary compensation for \$10.00 for the January 2012, storage locker fee, as I cannot determine from the documents submitted that the tenant is obligated to pay this amount and I do not consider this fee to be unpaid rent.

At the landlord's request, I allow the landlord to retain the tenant's security deposit of **\$400.00** in partial satisfaction of the claim and I grant the landlord a monetary order under authority of section 67 of the Act for the balance due of **\$450.00**.

I am enclosing a monetary order for **\$450.00** with the landlord's 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 landlord is granted an Order of Possession, may keep the tenant's security deposit in partial satisfaction of the claim and is granted a monetary order for **\$450.00**.

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: January 12, 2012.

Residential Tenancy Branch