



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MND, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession for cause, a monetary order for damage to the unit, a monetary order for unpaid rent. to keep all or part of the security deposit and recovery of the filing fee.

The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing by registered mail. I found that the tenant had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

This tenancy began March, 2010 with monthly rent of \$1250.00 and the tenant paid a security deposit of \$625.00.

The landlord stated that on November 27, 2011 they gave the tenant a 2 month notice to end tenancy for cause. The landlord stated that after additional warning letters were sent by the strata that on December 30, 2011 they issued the tenant a 1 month notice to end tenancy for cause; this notice when refused by the tenant was posted to the door and sent by registered mail. The landlord stated that the tenant has now not paid the February 2012 rent.

The landlord testified that the landlord has received 4 warning letters and a \$50.00 fine from the strata in regards to this tenancy.

- June 30, 2011 – noise complaint, yelling from the tenant's balcony

- July 4, 2011 – noise complaint as the tenant's dog is left on the balcony barking and then left in the tenant's unit barking
- August 15, 2011 – tenant's dog is running loose in and outside the building; landlord given \$50.00 fine.
- November 3, 2011 – tenant is leaving the building unsecured as an outside door is propped open to allow the tenants guests to freely come and go.

The landlord stated that there has also been damage to their rental unit and the unit below theirs due to the tenant plugging the drain and water overflowing. The landlord stated that the tenant has also changed the locks without the landlord's permission and made changes inside the rental unit.

The landlord stated that as the tenant remains in the rental unit past the end date of the notice to end tenancy and the February 2012 rent has gone unpaid, the landlord is requesting an order of possession effective 2 days after service upon the tenant. The landlord is also seeking a monetary order for \$1250.00 for unpaid rent.

Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds for entitlement to an order of possession for cause and a monetary order for unpaid rent.

Section 47(4) of the Act states that **within 10 days of receiving** a Notice to End Tenancy for Cause, a tenant must apply for dispute resolution. If the tenant fails to file to dispute the notice, then under section 46(5)(a)(b) of the Act they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Accordingly I find that the landlord is entitled to a monetary order for \$1250.00.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I hereby grant the landlord an **Order of Possession**, effective **2 days** after service of the Order upon the tenant(s). This Order must be served on the tenant(s) and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$1250.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord a monetary order under section 67 for the amount of **\$1300.00**.

If the amount is not paid by the tenant(s), the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: February 27, 2012

Residential Tenancy Branch