



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, 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 or utilities / retention of the security deposit / and recovery of the filing fee. The landlord participated in the hearing and gave affirmed testimony. Despite the landlord's in-person service on February 15, 2012 of the application for dispute resolution and notice of hearing (the "hearing package"), the tenant did not appear.

Issue(s) to be Decided

Whether the landlord is entitled to 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 tenancy began on or about November 5, 2011. Monthly rent of \$600.00 is payable in advance on the first day of each month, and a security deposit of \$300.00 was collected.

Arising from rent which was not paid when due on February 1, 2012 in the amount of \$600.00, the landlord issued a 10 day notice for unpaid rent dated February 2, 2012. The notice was personally served on the tenant on that same date. A copy of the notice was submitted in evidence. Subsequently, on February 23, 2012 the tenant made a payment toward rent in the limited amount of \$400.00, and continues to live in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated February 2, 2012. The tenant did not pay the full amount of rent outstanding within 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. Accordingly, I find that the landlord is entitled to an order of possession.

As for monetary compensation, I find that the landlord has established entitlement to a claim of \$250.00. This is comprised of the balance of rent overdue for February in the amount of \$200.00 (\$600.00 - \$400.00), in addition to the \$50.00 filing fee. Accordingly, I order that the landlord withhold \$250.00 from the tenant's \$300.00 security deposit.

The parties are encouraged to resolve between them the disposition of the balance of the security deposit of \$50.00 (\$300.00 - \$250.00) at the end of tenancy.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant 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.

I hereby order the landlord to withhold **\$250.00** from the tenant's security deposit.

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 24, 2012.

Residential Tenancy Branch