



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MND, MNR, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. A Monetary Order for damage to the unit – Section 67;
4. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing.

The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

At the onset of the Hearing, the Landlord stated that the claim in relation to all monetary amounts was being withdrawn as they do not believe that it would be enforceable against the Tenant anyway and the primary concern was making the unit available for new renters.

Issue(s) to be Decided

Is the Notice to End Tenancy valid?

Is the Landlord entitled to an Order of Possession?

Background and Evidence

The tenancy started on May 2, 2010. Although a tenancy agreement was produced, it was not signed by the Tenant as the Landlord forgot to have it signed. The Landlord states that since December 2011, the rent has not been paid and that the Tenant started staying for periods of time with his girlfriend. The Tenant however has been seen by the Landlord periodically picking up his mail and staying at the unit as well. On February 2, 2102, the Landlord served the Tenant with a Notice to end tenancy for non-payment of rent. Another worker at the building containing the unit witnessed the Tenant take the Notice to End Tenancy off the door. The Landlord spoke with the Tenant at the unit on or about February 10, 2011 and the Tenant was in the process of packing. On February 26 and 28, 2012, the Landlord carried out an inspection of the unit and found some items remaining but these items appeared to be junk. No keys to the unit have been returned to date. For a period of time another person was living in the unit as well but has since moved out of the unit. The Tenant has not filed an application to dispute the Notice to End Tenancy.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based on the undisputed evidence of the Landlord, I find that the Tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The Tenant has not filed an application to dispute the notice and has not paid the outstanding rent. Given these facts, I find that the Landlord is entitled to an **Order of Possession**.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. 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.

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: March 1, 2012.

Residential Tenancy Branch