



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNDC, 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 / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

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, the one year fixed term of tenancy began on September 1, 2011. Monthly rent of \$1,050.00 is payable in advance on the first day of each month. A security deposit of \$525.00 and a pet damage deposit of \$525.00 were both collected.

For reasons related to their dissatisfaction with certain aspects of the tenancy, the tenants put a stop payment on the cheque which had been issued to the landlord for February's rent. As a result, the landlord issued a 10 day notice to end tenancy for unpaid rent dated February 7, 2012. The notice was served in person on the male tenant on that same date. A copy of the notice was submitted in evidence.

Thereafter, the parties agreed to meet at a local restaurant on February 12, 2012; it was also agreed that the tenants would pay February's rent at that meeting by way of either cash, certified cheque or bank draft. However, as the tenant did not attend the meeting with payment ready in any the methods previously agreed, no rent was collected.

Later on February 12, 2012, the male tenant called the landlord, stating that he would pay the rent in cash on February 13, 2012. Again the parties agreed to meet at a local restaurant for this purpose. However, at the meeting an interpersonal dispute arose between the female tenant and the landlord, which resulted in the tenants leaving the restaurant without paying February's rent. Presently, the tenants still reside in the unit.

During the hearing the female tenant was argumentative and verbally abusive toward the landlord and the landlord's witness.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated February 7, 2012. The tenants did not apply to dispute the notice within 5 days of receiving it. On a balance of probabilities, I find that neither did the tenants pay the outstanding rent within 5 days of receiving the notice by any of the means agreed to with the landlord. The tenants are 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 has established entitlement to an order of possession.

As for the monetary order, I find that the landlord has established a claim of \$1,100.00, comprised of unpaid rent for February 2012 of \$1,050.00, and the \$50.00 filing fee. The landlord has not presently applied to retain either the security or pet damage deposit(s).

As the date for this hearing is March 1, 2012, and as rent for March is payable on the first day of the month, the landlord's application for a monetary order as compensation for March rent is hereby dismissed with leave to reapply.

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service on the tenants. 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 \$1,100.00. 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: March 01, 2012.

Residential Tenancy Branch