



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPB, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order for damages 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 in person. 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 December 22, 2011 with monthly rent of \$1100.00 and the tenant paid a security deposit of 550.00.

On March 31, 2012 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause: the tenant is repeatedly late paying the rent. The tenant has not filed to dispute this notice.

The landlord testified that the tenant and all occupants vacated the rental unit Monday April 30, 2012. The landlord stated that the tenant also left a number of items in the basement and when the landlord contacted the tenant, the tenant sent the landlord a text message stating that the items in the basement were his problem and that she would not be back to remove them. As the tenant and all occupants have vacated the rental unit the landlord's application for an order of possession is hereby dismissed.

The landlord stated that the tenant never paid the rent on time or in full since she took possession of the rental unit December 22, 2011. The landlord stated that the tenant currently owes \$950.00 February 2012 rent, \$1100.00 March 2012 rent and \$1100.00 April 2012 rent. The landlord stated that the tenant also owes \$199.36 in unpaid utilities. The

landlord stated that when the tenant vacated she did not provide the landlord with a forwarding address or make herself available for a move out inspection.

The landlord in this application is seeking \$2249.36 in unpaid rent and utilities.

Analysis

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 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. In this case the tenancy effectively came to an end April 30, 2012 and the tenant vacated on that date.

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

Accordingly I find that the landlord is entitled to a monetary order for \$3349.36.

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

Conclusion

I find that the landlord has established a monetary claim for \$3349.36 in unpaid rent and utilities. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep the tenant's \$550.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$2849.36**.

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: May 2, 2012

Residential Tenancy Branch