



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession, a monetary order for unpaid rent and for money owed or compensation for damage or loss, for authority to retain the tenant's security deposit and to recover the filing fee.

The landlord testified that she served the tenant the Application for Dispute Resolution and Notice of Hearing by registered mail on May 2, 2012; however the tenant did not appear at the hearing.

The landlord testified that the tenant was served via registered mail to the address at which the tenant resides, provided the tracking number for the registered mail envelope and successfully demonstrated sufficient delivery of the documents under Section 89 of the Residential Tenancy Act. Thus the hearing proceeded in the tenant's absence.

The landlord appeared, gave affirmed testimony and was provided the opportunity to present her evidence orally and in documentary form, and make submissions to me.

Issue(s) to be Decided

Is the landlord entitled to a monetary order, an order of possession and to recover the filing fee?

Background and Evidence

The landlord testified that this month to month tenancy began on April 1, 2012, monthly rent is \$1200.00, and a security deposit of \$500.00 was paid by the tenant at the beginning of the tenancy, on or about March 11, 2012.

The landlord gave affirmed testimony and supplied evidence that on April 19, 2012, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by personal delivery. The Notice stated the amount of unpaid rent was \$725.00.

The effective vacancy date listed on the Notice was April 29, 2012.

The landlord submitted that \$25.00 listed on the Notice was for a late fee, and not unpaid rent.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days or alternatively that the tenant had five days to dispute the Notice.

The landlord provided evidence and gave affirmed testimony that the tenant has not made any rent payments since issuance of the Notice and currently owes unpaid rent of \$1900.00 through the date of the hearing, including unpaid rent for May 2012.

I have no evidence before me that the tenant applied to dispute the Notice.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

The tenant has not paid the outstanding rent and did not apply to dispute the Notice and 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.

I find that the landlord is entitled to an order of possession effective two days after service on the tenant.

I am enclosing the order of possession with the landlord's Decision. This order is a legally binding, final order, and may be filed in the Supreme Court of British Columbia should the tenant fail to comply with this order of possession.

I find that the landlord has established a total monetary claim of \$1975.00 comprised of outstanding rent of \$1900.00, late fee of \$25.00 and the \$50.00 filing fee paid by the landlord for this application.

At the landlord's request, I allow the landlord to retain the tenant's security deposit of \$500.00 in partial satisfaction of the claim and I grant the landlord a monetary order under authority of section 67 of the Act for the balance due of \$1475.00.

I am enclosing the monetary order for \$1475.00 with the landlord's Decision. This order is a final, legally binding order, and may be filed in the Provincial Court of British Columbia (Small Claims) should the tenant fail to comply with this monetary order.

Conclusion

The landlord is granted an order of possession, may keep the tenant's security deposit in partial satisfaction of the claim and is granted a monetary order for \$1475.00.

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 16, 2012.

Residential Tenancy Branch