



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR / OPC / OPB, MNR, MNSD, FF

Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / retention of the security deposit / and recovery of the filing fee. The landlord attended the hearing and gave affirmed testimony. Despite in-person service of the application for dispute resolution and notice of hearing on June 8, 2012, the tenant did not appear.

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, a copy of which is not in evidence, the month-to-month tenancy began on January 1, 2012. Two (2) tenants are named on the tenancy agreement: tenant "CLF" and tenant "TLM." Monthly rent of \$1,250.00 is due and payable in advance on the first day of each month, and a security deposit of \$625.00 was collected.

The landlord issued a 1 month notice to end tenancy for cause dated April 18, 2012. Both tenants are named on the notice. The notice was served in-person on the tenants on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenants must vacate the unit is May 18, 2012. Reasons shown on the notice for its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

significantly interfered with or unreasonably disturbed another occupant or the landlord

seriously jeopardized the health or safety or lawful right of another occupant or the landlord

Tenant has engaged in illegal activity that has, or is likely to:

damage the landlord's property

adversely affect the quiet enjoyment, security or physical well-being of another occupant or the landlord

jeopardize a lawful right or interest of another occupant or the landlord

Subsequently, tenant "CLF" vacated the unit on May 18, 2012. Tenant "CLF" had made no payment toward rent for May 2012, however, the landlord returned to her ½ of the original security deposit in the amount of \$312.50 ($\$625.00 \div 2$). The landlord seeks no further compensation from tenant "CLF" and tenant "CLF" is not named on the landlord's application for dispute resolution.

Tenant "TLM" paid ½ of the rent for May. However, following service of the 1 month notice, tenant "TLM" did not file an application to dispute the notice, she has not apparently vacated the unit, and neither has she made any payment toward rent for June 2012. In short, further to obtaining an order of possession, the landlord simply seeks permission to retain the balance of the security deposit of \$312.50.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenants were served with a 1 month notice to end tenancy for cause dated April 18, 2012. Pursuant to section 53 of the Act which speaks to **Incorrect effective dates automatically changed**, the date by when the tenants must vacate the unit is May 31, 2012 (not May 18, 2012 as shown on the notice). While tenant "CLF" vacated the unit on May 18, 2012, tenant "TLM" did not apply to dispute the notice and continues to reside in the unit. 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 entitlement to \$1,300.00, which is comprised of unpaid rent for June 2012 in the amount of \$1,250.00,

in addition to the \$50.00 filing fee. In the result, I order that the landlord retain the balance of the security deposit still in his possession of \$312.50. As the landlord testified that he only wishes to be able to retain the security deposit, I consider that he has withdrawn his application for a monetary order for the balance owed of \$987.50 (\$1,300.00 - \$312.50).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **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 that the landlord retain the balance of the **security deposit** of **\$312.50**.

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: June 27, 2012.

Residential Tenancy Branch