



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an application for dispute resolution under the Residential Tenancy Act (the “Act”) by the landlord for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and unpaid utilities and to recover the filing fee.

The landlord appeared and gave affirmed testimony.

The landlord testified that he served the tenant with the Application for Dispute Resolution and Notice of Hearing (the Hearing Package) by personal delivery on June 7, 2012. The service of the documents was witnessed by the landlord’s wife.

I find the tenant was served in a manner complying with section 89 of the Residential Tenancy Act (the “Act”) and the hearing proceeded in the tenant’s absence.

The landlord was provided the opportunity to present his evidence orally and in documentary form.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence **relevant** to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, a monetary order and to recover the filing fee?

Background and Evidence

The landlord submitted that the tenant has lived in the rental unit for approximately 4 years, with the parties entering into a new tenancy agreement each year. The latest tenancy agreement shows that this one year, fixed term tenancy began on August 1,

2011, monthly rent is \$936.00, and a security deposit was paid by the tenant at the beginning of the tenancy. However, the landlord was unclear of the amount or the date paid.

The landlord gave affirmed testimony and supplied evidence that on May 18, 2012, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by personal delivery, listing unpaid rent of \$1872.00 as of May 1, 2012. The effective vacancy date listed on the Notice was June 30, 2012.

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

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

The landlord stated that the tenant additionally did not pay rent for the month of June 2012 and as of the date of the hearing, the tenant owed \$2808.00 in unpaid rent.

As to the issue of unpaid utilities, the landlord confirmed that he had not given the tenant a notice of the amount as per their usual custom.

Analysis

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

I find the tenant did not pay the outstanding rent or apply to dispute the Notice within five days 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.

As to the unpaid utilities, the landlord did not serve the notice of the bills upon the tenant for reimbursement as in the past. Therefore the tenant has not been given notice of any amount owed.

Conclusion

I find that the landlord is entitled to an order of possession effective at 1:00 p.m. on June 30, 2012, the effective date of the Notice.

The order of possession is enclosed 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.

As to the unpaid utilities, the landlord failed to submit the bill to the tenant as he has done in the past. Additionally a portion of the claim was an estimate and as the date of the hearing, the landlord had not yet suffered a loss. I therefore dismiss the landlord's claim for unpaid utilities, with leave to reapply.

I find that the landlord has established a total monetary claim of \$2858.00 comprised of outstanding rent of \$2808.00 through June 30, 2012, and the \$50.00 filing fee paid by the landlord for this application.

I grant the landlord a monetary order pursuant to section 67 of the Act for the amount of \$2858.00.

The monetary order for \$2858.00 is enclosed 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.

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 26, 2012.

Residential Tenancy Branch