



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNR, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord, her agent and the female tenant.

This hearing was originally convened on July 9, 2012 at which time despite testimony that evidence had been provided to the Residential Tenancy Branch (RTB) there was no evidence on the file. I granted an adjournment to July 30, 2012 for which the landlord served the tenant with the notice of reconvened hearing and submitted evidence to the RTB.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and/or for cause; to a monetary order for unpaid rent; and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 47, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties in September 2010 for a month to month tenancy beginning on November 1, 2010 for the monthly rent of \$1,400.00 due on the 1st of each month and a security deposit of \$700.00 and a pet damage deposit of \$100.00 was paid;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on June 2, 2012 with an effective vacancy date of June 15, 2012 due to \$1,400.00 in unpaid rent; and

- A copy of a 1 Month Notice to End Tenancy for Cause issued on May 31, 2012 with an effective vacancy date of June 30, 2012 citing the tenants had been repeatedly late paying rent.

Documentary evidence filed by the landlord and testimony from the female tenant confirms the tenants failed to pay the full rent owed for the months of June and July 2012 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on June 2, 2012.

The Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. Despite the tenant's testimony that they had many reasons to not pay the rent, the tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all evidence and testimony and accept that the tenants have been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on June 2, 2012 and the effective date of the notice was June 16, 2012. I accept the evidence before me that the tenants failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenants are conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

As I have found the tenants are conclusively presumed to have accepted the tenancy as June 16, 2012, I make no findings or rulings on the matter of the 1 Month Notice to End Tenancy for Cause. I also note that the tenant testified that she would be vacating the rental unit by July 31, 2012 and as no objection to the landlord obtaining an order of possession for that date.

Conclusion

I find the landlord is entitled to an order of possession effective **July 31, 2012 after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$2,850.00** comprised of \$2,800.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and pet damage deposit held in the amount of \$800.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$2,050.00**.

This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: July 30, 2012.

Residential Tenancy Branch