Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony. During the hearing the tenant consented to the landlord's request to amend the original application to include an application to retain the security deposit.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this month-to-month tenancy which began approximately 6 months ago. Monthly rent of $2,000.00 is due and payable in advance on the first day of each month, and a security deposit of $1,000.00 was collected.

There is no dispute between the parties that the landlord issued and personally served a 10 day notice to end tenancy on or about June 12, 2012. A copy of the 10 day notice is not in evidence. Neither is there any dispute that rent has not subsequently been paid for April, May, June or July 2012. The tenant continues to reside in the unit.

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 testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated on or about June 12, 2012. The tenant did not pay the outstanding rent within 5 days of receiving the

notice and did not apply to dispute the notice. The tenant 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. Accordingly, I find that the landlord is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim of $8,100.00, which is comprised of unpaid rent for 4 months, as above, in the total amount of $8,000.00 (4 x $2,000.00), in addition to the $100.00 filing fee. I order that the landlord retain the security deposit of $1,000.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of $7,100.00 ($8,100.00 - $1,000.00).

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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **$7,100.00**. This order may be served on the tenant, filed in the Small Claims Court 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: July 11, 2012.

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Residential Tenancy Branch