



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, FF / MT, CNR

Introduction

This hearing concerns 2 applications: i) by the landlord for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee; ii) by the tenant for more time to make an application to cancel a notice to end tenancy / and cancellation of a notice to end tenancy for unpaid rent. Both parties participated in the hearing and gave affirmed testimony.

Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began in March 2010. Monthly rent of \$700.00 is due and payable in advance on the first day of each month, and a security deposit of \$350.00 was collected.

Arising from rental arrears for April, May and June 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent dated June 5, 2012. The notice was served in-person on the tenant on that same date. A copy of the notice was submitted in evidence. The landlord testified that no payments toward rent have subsequently been received, and the tenant continues to reside in the unit. During the hearing the landlord confirmed that the status of outstanding rent is presently as follows:

April: \$700.00

May: \$70.34

June: \$70.34

July: \$700.00

Total: \$1,540.68

The tenant filed an application to dispute the notice on July 12, 2012, which is beyond the five (5) day limit available for doing same, following in-person service of the notice on June 5, 2012. During the hearing the tenant identified no exceptional circumstances giving rise to her late application.

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 June 5, 2012. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice within the 5 day period available for doing same.

Section 66 of the Act addresses **Director's orders: changing time limits**. As the tenant identified no exceptional circumstances resulting in her late application to dispute the notice, the tenant's application for more time to make an application to cancel the notice is hereby dismissed, and 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 a claim of \$1,590.68. This is comprised of unpaid rent totalling \$1,540.68, as set out above, in addition to the \$50.00 filing fee.

The parties are encouraged to attempt to resolve the disposition of the security deposit between them at the end of tenancy. In this regard, section 38 of the Act addresses **Return of security deposit and pet damage deposit**.

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 \$1,590.68. Should it be necessary, 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 05, 2012.

Residential Tenancy Branch