



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and money owed or compensation for damage or loss, for authority to retain the tenant's security deposit and to recover the filing fee.

The parties appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

The evidence was discussed and no party raised any issue regarding service of the evidence.

Thereafter all parties gave affirmed testimony, were provided the opportunity to present their evidence orally and to refer to documentary evidence timely submitted prior to the hearing, and make submissions to me.

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

This tenancy began on November 15, 2010, monthly rent is \$850.00, and a security deposit of \$425.00 was paid by the tenant at the beginning of the tenancy.

The landlord supplied evidence that on July 9, 2012, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by posting on the door, listing unpaid rent of \$642.88 as of July 9, 2012. The effective vacancy date listed on the Notice was July 19, 2012.

Section 90 of the Act states that documents served in this manner are deemed delivered three days later. Thus the effective move out date is automatically changed to July 22, 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.

The landlord stated that the tenant made deficient monthly rent payments of \$658.24 in April, and \$766.09 each in May, June, July and August 2012, leaving a balance of unpaid rent owing as of the date of the hearing in the amount of \$527.40.

Additionally the landlord is requesting the amount of \$199.18 for damage to the front door of the rental unit caused by the tenant.

The tenant acknowledged owing this amount; however, the tenant further stated that she attempted to work with the landlord to be able to continue the tenancy, with no success.

The tenant stated that she locked herself out of the rental unit and that an emergency in her rental unit required that she kick in the door.

The tenant agreed that she did not file an application for dispute resolution or pay the unpaid rent within 5 days of receiving the Notice.

Analysis

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

I find the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or apply to dispute the Notice within five days of service 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.

I also find that the landlord has sufficiently proven damage or loss, in the form of having to repair the damage caused by the tenant, due to the tenant's agreement. The tenant agreed with the amount listed on the landlord's invoice.

Conclusion

I find that the landlord is entitled to an order of possession effective two days after service of the order upon the tenant.

I grant the landlord a final, legally binding order of possession, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit pursuant to the terms of the order, this order may be filed in the Supreme Court of British Columbia for enforcement.

I find that the landlord has established a total monetary claim of \$776.58 comprised of outstanding rent of \$527.40 through August, 2012, door damage in the amount of \$199.18 and the \$50.00 filing fee paid by the landlord for this application.

At the landlord's request, I allow the landlord to retain the tenant's security deposit of **\$425.00** in partial satisfaction of the claim.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$351.58, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement.

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: August 15, 2012.

Residential Tenancy Branch