



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, 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 to recover the filing fee.

The tenant did not appear at the telephone conference call hearing. The landlord appeared and gave affirmed testimony.

The landlord testified that the tenant was served with the Application for Dispute Resolution and Notice of Hearing (the Hearing Package) by registered mail*on July 25, 2012 . The landlord supplied the tracking number of the registered mail.

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 to refer to documentary evidence timely submitted prior to the hearing.

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.

I note that the two landlords and the two tenants are referred to in the singular.

Preliminary Issue-

The landlord did not initially submit a copy of the 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") and the written tenancy agreement. I allowed the landlord to fax these documents to me after the hearing, with the understanding that the documents must be received by 4:30 p.m. the day of the hearing. The landlord complied and I considered these documents.

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 1, 2010, monthly rent is \$975.00, and a security deposit of \$487.50 was paid by the tenant on November 3, 2010 and the tenant paid a pet damage deposit of \$300.00 during the first month of the tenancy.

The landlord gave affirmed testimony and supplied evidence that on July 2, 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 \$975.00 as of July 1, 2012. The effective vacancy date listed on the Notice was July 12, 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 has not made any payments since issuance of the Notice. The landlord also stated that the tenant may have vacated the rental unit, although he have no notice, has not turned in the keys and still as personal property in the rental unit.

The landlord is requesting a monetary order of \$1950.00 as unpaid rent for July and August 2012.

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.

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 \$2000.00 comprised of outstanding rent of \$1950.00 through August, 2012, and the \$50.00 filing fee paid by the landlord for this application.

I allow the landlord to retain the tenant's security deposit of \$487.50 and pet damage deposit of \$300.00 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 \$1212.50, 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 20, 2012.

Residential Tenancy Branch