



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 for the application.

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

No party raised any issue regarding service of the evidence.

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

I have reviewed all testimony and other evidence. 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 for unpaid rent and to recover the filing fee?

Background and Evidence

This single room occupancy tenancy began in October 2005, current monthly rent is \$1000.00, and no security deposit was paid by the tenant.

The landlord gave evidence that on June 29, 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 \$17,000.00 as of June 1, 2012. The effective vacancy date listed on the Notice was July 11, 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 and the tenant confirmed not having applied to dispute the Notice.

The landlord stated, and the tenant confirmed, that the tenant has not made any payments and that the actual amount of unpaid rent is \$20,000.00 through August 2012.

In explanation, the landlord stated that he allowed the tenant to continue residing in the rental unit despite not having paid rent for 20 months, as it was almost like dealing with a family member, they were concerned of the tenant's health and there was an expectation that she would "make good" on the past due rent.

The tenant agreed that the landlord has been very generous to her, that circumstances surrounding an estate matter prevented her from making the monthly rent and that she intended on paying all rent owed when able.

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 \$20,100.00 comprised of outstanding rent of \$20,000.00 through August, 2012, and the \$100.00 filing fee paid by the landlord for this application.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$20,100.00, 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 24, 2012.

Residential Tenancy Branch