



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNDC, 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 / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony. Despite in-person service of the application for dispute resolution and notice of hearing (the "hearing package") on July 21, 2012, the tenant did not appear.

Issue(s) to be Decided

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

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy is from April 15, 2012 to April 30, 2013. Monthly rent of \$720.00 is due and payable in advance on the first day of each month, and a security deposit of \$360.00 was collected.

Arising from rent which remained unpaid / overdue on July 1, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent dated July 5, 2012. The notice was served by way of posting on the tenant's door on that same date. A copy of the notice was submitted in evidence. Subsequently, on July 14, 2012 the tenant made payment of all rental arrears and applicable fees assessed for late payment of rent. However, no rent has been paid for August and the tenant continues to reside in the unit. The landlord's agent testified that while an order of possession is still required, the expectation is that the tenant will very shortly make full payment of rent for August, in addition to the \$20.00 fee assessed for late payment of rent.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated July 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. 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 entitlement to a claim of \$740.00, which is calculated as follows:

\$720.00: unpaid rent for August

\$20.00: fee assessed for late payment of rent

The landlord's agent withdrew the aspect of the application concerning recovery of the \$50.00 filing fee, and the landlord has not applied to retain the security 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 **\$740.00**. 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: August 14, 2012.

Residential Tenancy Branch