



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 matter concerns 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 30, 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 initial fixed term of tenancy was from July 1 to December 31, 2011. Thereafter, tenancy has continued on a month-to-month basis. Monthly rent of \$1,100.00 is due and payable in advance on the first day of each month, and a security deposit of \$550.00 was collected.

Arising from rent which was unpaid when due on July 1, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent dated July 3, 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 August 2, 2012, the tenant made a payment toward rent in the amount of \$1,100.00. At that stage, no rent had been paid for August. Thereafter, on August 21, 2012, the tenant made a payment toward rent of \$800.00. There have been no further payments and the tenant still resides in the unit.

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 3, 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 has established entitlement to an order of possession.

As for the monetary order, I find that the landlord has established a claim of \$375.00, which is comprised as follows:

\$300.00: *balance of unpaid rent for August*

\$25.00: *fee assessed for late payment of rent (pursuant to tenancy agreement)*

\$50.00: *filing fee*

In order to ensure consistency with the landlord's records, the landlord's agent withdrew the aspect of the original application concerning recovery of the \$25.00 fee assessed for late payment of July's rent.

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 **1:00 p.m., Friday, August 31, 2012**. 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 \$375.00. 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 24, 2012.

Residential Tenancy Branch