



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MND, MNR, MNDC, FF, O

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord and his agent.

Originally this hearing was scheduled as a result of the tenant submitting an Application for Dispute Resolution, on July 13, 2012, seeking more time to apply to cancel a notice to end tenancy and to cancel a notice to end tenancy. When the landlord submitted an Application for Dispute Resolution, on July 18, 2012, seeking an order of possession and a monetary order the hearing was set to hear both Applications.

On August 1, 2012 the Residential Tenancy Branch received a request from the tenant to cancel his Application for Dispute Resolution stating that they had reached an agreement. The landlord was called and confirmed that he wanted to proceed with his Application.

At the outset of the hearing the landlord's agent testified they believed the tenant had vacated the rental property but they are still seeking an order of possession and a monetary order for unpaid rent. However, the landlords also asked to withdraw their application for compensation for damage to the rental unit.

The landlord provided documentary evidence the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on July 26, 2012 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenant on the 5th day after it was mailed.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for cause; to a monetary order for unpaid rent; and to recover the filing fee from the

tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord provided into evidence the following documents:

- A copy of a tenancy agreement signed by the parties on December 12, 2010 for a month to month tenancy beginning on January 1, 2011 for a monthly rent of \$570.00 due on the 1st of each month. No security deposit was paid; and
- A copy of a 1 Month Notice to End Tenancy for Cause dated June 14, 2012 with an effective vacancy date of July 25, 2012 citing the tenant was repeatedly late paying rent; that the tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk; and the tenant has engaged in illegal activity that has or is likely to damage the landlord's property.

The landlord testified the tenant failed to pay rent for the month of July 2012.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if one or more of the following applies:

- a) The tenant is repeatedly late paying rent;
- b) The tenant or a person permitted on the residential property by the tenant has
 - i. Put the landlord's property at significant risk; or
- c) The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that
 - i. Has caused or is likely to cause damage to the landlord's property.

As the tenant has withdrawn his Application for Dispute Resolution I find this has the same effect as not filing an Application and therefore in accordance with Section 47(5) I find the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

Further, based on the undisputed testimony from the landlord I find the tenant failed to pay rent for the month of July 2012.

Conclusion

For the reasons above, I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$620.00** comprised of \$570.00 rent owed and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 03, 2012.

Residential Tenancy Branch