



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

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 both landlords and the tenant.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on March 9, 2012 for a 1 year fixed term tenancy beginning on April 1, 2012 for the monthly rent of \$1,075.00 and a security deposit of \$537.50 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on July 9, 2012 with an effective vacancy date of July 19, 2012 due to \$1,075.00 in unpaid rent.

Documentary evidence filed and testimony provided by the landlord indicates the tenant failed to pay the full rent owed for the months of July and August 2012 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on July 9, 2012.

The tenant testified that her grandmother had passed away at the end of May 2012 and that she had been at her funeral at the beginning of June 2012 on the Sunshine Coast and that at the end of June she had left the province for the burial and she had been away for 3 weeks.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and testimony and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on July 12, 2012 and the effective date of the notice is amended to July 22, 2011, pursuant to Section 53 of the *Act*.

I find therefore the latest the tenant could have paid the landlord the rent in full or filed an Application for Dispute Resolution to request more time to apply to cancel the notice and to cancel the notice was July 17, 2012.

As the tenant testified that she had been out of province from the last week in June for a three week period, she must have returned to British Columbia before the deadlines required under the *Act*, in this case July 17, 2012.

I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenant is 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 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 in the amount of **\$2,200.00** comprised of \$2,150.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$537.50 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,662.50**.

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 13, 2012.

Residential Tenancy Branch