



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing 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 / retention of the security deposit / and recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony. Despite service of the application for dispute resolution and notice of hearing by way of registered mail, the tenant did not appear. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail.

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, what has become a month-to-month tenancy began on August 1, 2010. Monthly rent of \$798.00 is due and payable in advance on the first day of each month, and a security deposit of \$385.00 was collected.

Arising from rent which was unpaid when due on August 1, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent dated August 2, 2012. The notice was served in-person on the tenant on that same date. A copy of the notice was submitted in evidence. Subsequently, the tenant has made 2 payments toward rent, as follows:

\$500.00 on August 17, 2012

\$500.00 on September 17, 2012

Receipts have been issued to the tenant in exchange for these payments, with notations, "for use and occupancy only," and the tenant continues to reside 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 August 2, 2012. The tenant did not pay the full amount of rent outstanding 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 \$686.00, which is comprised as follows:

- \$298.00: balance of rent unpaid for August (\$798.00 - \$500.00);
- \$20.00: fee assessed for late payment of rent;
- \$298.00: balance of rent unpaid for September (\$798.00 - \$500.00);
- \$20.00: fee assessed for late payment of rent;
- \$50.00: filing fee.

I order that the landlord retain the security deposit of \$385.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$301.00 (\$686.00 - \$385.00).

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 \$301.00. 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: September 18, 2012.

Residential Tenancy Branch