



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR and FF

Introduction

This hearing was convened on an application made by the landlords on September 6, 2012 seeking an Order of Possession pursuant to a Notice to End Tenancy for cause served in person on August 22, 2012 with an end of tenancy date of September 30, 2012. The landlords also sought a Monetary Order for unpaid rent and recovery of the filing fee for this proceeding.

The Notice to End Tenancy cited repeated late payment of rent, significant interference with or unreasonable disturbance and putting property at significant risk.

Despite having been served with the Notice of Hearing in person on July 11, 2012, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issue(s) to be Decided

This matter requires a decision on whether the landlords are entitled to an Order of Possession and a Monetary Order for unpaid rent and recovery of their filing fee.

Background and Evidence

This tenancy began on or about April 1, 2012. Rent is \$450 per month, due on the first day of the month, and there is no security deposit.

During the hearing, the landlords gave evidence that the Notice to End Tenancy had been served, among the other reasons, because the tenant had been late paying the rent for every month since the tenancy began. The landlord submitted copies of receipts for the rent and their bank statements showing deposits coinciding with the amounts and dates of the receipts.

Late rent for April 2012 was paid on April 13, 2012 and a \$75 shortfall remains unpaid. May, June and July 2012 rents were paid on the 24th, 28th and 31st respectively. In addition, the landlords stated that the tenant has refused to pay any rent since they issued the Notice to End Tenancy and she has refused to vacate.

The landlords also gave evidence that the rental unit had been subject to a number of police calls, even after service of the Notice to End Tenancy. They stated that at least one neighbouring tenant had moved due to the heavy visitor traffic to the rental unit and late night parties, and for the same reason, they had been unable to show the adjacent vacant rental unit to prospective tenants.

As evidence that the tenant had put the property at significant risk, the landlords submitted a copy of an invoice for \$190 they had to pay to repair a door to the rental unit that had been kicked in.

Analysis

Section 47 of the *Act* empowers a landlord to issue a one-month Notice to End Tenancy for cause. Section 47(1)(b) gives cause when a tenant is repeatedly late paying rent, the standard measure of which is three late months within a year. Section 47(1)(d)(i) applies when a tenant or person permitted on the property by the tenant, has, “significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property and section 47(1)(d)(iii) applies when such persons have put the landlord’s property at significant risk. If find, on the balance of probabilities, that the Notice to End tenancy is valid on all three causes, any one of which warrants ending the tenancy.

Section 47(5) of the *Act*, which is restated on the Notice to End Tenancy, provides that if a tenant receives a one-month Notice to End Tenancy for cause and does not make application to contest the notice within 10 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice.

In the absence of such application from the tenant, I find that the landlords are entitled to an Order of Possession to take effect two days from service of it on the tenant.

I further find that the landlords are entitled to a Monetary Order for the unpaid rent, including two weeks for loss of rent for October 2012 as it is virtually impossible that the landlords would be able to find new tenants before the middle of the month.

As the application has succeeded on its merits, I find that the landlords are entitled to recover the filing fee for this proceeding from the tenant.

Thus, I find that the landlords are entitled to a Monetary Order calculated as follows:

April rent shortfall	\$ 75.00
September 2012 rent	450.00
One-half month rent for October 2012	225.00
Filing fee	50.00
TOTAL	\$1,250.00

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia to take effect two days from service of it on the tenant.

The landlords' copy of this decision is also accompanied by a Monetary Order for **\$1,250.00**, enforceable through the Provincial Court of British Columbia, for service on the tenant.

The landlords remain at liberty to make application for any further damage or losses as may be ascertained when they have regained possession of the rental unit.

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: October 03, 2012.

Residential Tenancy Branch