



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, FF

Introduction

This hearing was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to recover the filing fee for this application - Section 72.

I accept the landlord's evidence that despite the tenant having been served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Residential Tenancy Act (the Act), the tenant did not participate in the conference call hearing. The landlord testified that the tenant still resides in the unit. The landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on September 01, 2012. Rent in the amount of \$1050.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month of October 2012 and on October 04, 2012 the landlord served the tenant with a notice to end tenancy for non-payment of rent, in person, and also by registered mail. The tenant paid \$500.00 on October 15, 2012. The tenant later paid the balance of October 2012 rent, in the amount of \$550.00, on October 20, 2012 - for which the landlord gave the tenant a receipt stating for "use of property". The landlord testified that on both occasions when accepting rent in October 2012 they verbally notified the tenant that despite paying an amount toward the outstanding rent, that the landlord did not want to re-instate the tenancy. The tenant further failed to pay rent in the month of November 2012. The quantum of the landlord's monetary claim is for unpaid rent for November 2012 in the amount of \$1050.00.

Analysis

Based on the undisputed testimony of the landlord I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid the outstanding rent and did not apply for Dispute Resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice – October 14, 2012. I find the tenant did not pay the full amount of rent for October 2012 *before* the end of the tenancy (the effective date of the Notice to End) therefore the landlord was not obligated to consider re-instating the tenancy. Based on the above facts I find that the landlord is entitled to an **Order of Possession**.

I find that the landlord has established a monetary claim for \$1050 in unpaid rent for November 2012. The landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$1100.00**.

The landlord did not elect to retain the security deposit therefore it must be administered at the end of the tenancy in accordance with the Act.

Conclusion

I grant an Order of Possession to the landlord, **effective 2 days** from the day it is served on the tenant. If the landlord determines to end the tenancy, they must serve the tenant with this **Order of Possession**. 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.

I Order that the landlord may retain **\$50** for the *filing fee* from the tenant's security deposit.

I grant the landlord an Order under Section 67 of the Act for **\$1050.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

This Decision is final and binding on both parties.

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: November 20, 2012

Residential Tenancy Branch