



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 the landlord's agent 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 8, 2006 for a 6 month fixed term tenancy beginning on April 1, 2006 that converted to a month to month tenancy on October 1, 2006 for the monthly rent of \$660.00 due on the 1st of each month and a security deposit of \$330.00 was paid. The landlord also provided a copy of a tenant ledger and the latest Notice of Rent increase to confirm the rent, over the course of the tenancy has been increased to \$808.00 per month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on October 19, 2012 with an effective vacancy date of October 29, 2012 due to \$226.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the month of October 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 October 19, 2012. The tenant testified that she received the notice on October 19, 2012

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. The landlord has received the payment of rent for use and occupancy only for November and December but the tenant has not paid the original outstanding amount.

The tenant submitted that she had attempted to pay the landlord this amount last week but that he told her to forget about it. The landlord's agent testified that she had told them that she had the money last week and despite going to the rental unit 3 times the tenant did not have the money.

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 was received by the tenant on October 19, 2012 and the effective date of the notice was October 29, 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 **\$276.00** comprised of \$226.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct this amount from the security deposit and interest held in the amount of \$341.37 in satisfaction of this claim leaving a balance of \$65.37.

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: December 05, 2012.

Residential Tenancy Branch