



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 concerns an application by the landlords for an order of possession / a monetary order as compensation for unpaid rent or utilities / and recovery of the filing fee. The landlord attended the hearing and gave affirmed testimony. Despite in-person service on November 2, 2012 of the application for dispute resolution and notice of hearing (the "hearing package"), the tenant did not appear.

Issue(s) to be Decided

Whether the landlords are entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began in September 2011. Monthly rent including utilities is \$750.00 (\$600.00 + \$150.00), and it is due and payable in advance on the first day of each month. No security deposit was collected.

The parties signed a "Mutual Agreement to End a Tenancy" form dated October 4, 2012. The date shown on the form by when the tenant will vacate the unit is October 31, 2012. However, the tenant did not vacate the unit as mutually agreed.

Thereafter, the landlord issued a 10 day notice for unpaid rent or utilities dated October 20, 2012. The notice was served in-person on that same date. A copy of the notice was submitted in evidence. Subsequently, the tenant made no further payment toward rent or utilities and she continues to reside in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 10 day notice to end tenancy for unpaid

rent or utilities dated October 20, 2012. The tenant did not pay the full amount 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 landlords have established entitlement to an order of possession.

As for the monetary order, I find that the landlords have established entitlement to a monetary order in the amount of \$2,075.00, which is comprised as follows:

\$150.00: *unpaid rent / utilities for September 2012*
\$750.00: *unpaid rent / utilities for October 2012*
\$750.00: *unpaid rent / utilities for November 2012*
\$375.00: *unpaid rent / utilities for the period December 1-15, 2012*
\$50.00: *filing fee*

Conclusion

I hereby issue an order of possession in favour of the landlords 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 landlords in the amount of \$2,075.00. This order may be served on the tenant, filed on 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: December 03, 2012.

Residential Tenancy Branch