



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes For the tenant: OLC, PSF
For the landlord: OPR, MNR, O

Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the Residential Tenancy Act (the “Act”).

The tenant applied for an order requiring the landlord to provide services or facilities required by law and for an order requiring the landlord to comply with the Act.

The landlord applied for a monetary order for unpaid rent, an order of possession due to unpaid rent and other relief. I note that the landlord never specified as to what the other relief to which they referred.

The landlord appeared; the tenant did not appear.

The landlord said that the tenant was served with the landlord’s Application for Dispute Resolution and Notice of Hearing by leaving it with the tenant on November 8, 2012.

I find the tenant was served in a manner complying with section 89 of the Residential Tenancy Act (the “Act”) and the hearing proceeded in the tenant’s absence.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all testimony and other evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary Issue: As the tenant failed to appear in support of her application, I dismiss her application, without leave to reapply. The hearing proceeded only upon the landlord’s application.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent and a monetary order for unpaid rent?

Background and Evidence

I heard evidence that this single room occupancy tenancy began on September 20, 2010, in one room, the tenant subsequently moved to another room, monthly rent is \$650.00, and the landlord is not currently holding a security deposit.

The landlord gave evidence that on November 2, 2012, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by posting it on the tenant's door, listing unpaid rent of \$650.00 as of November 1, 2012. The effective vacancy date listed on the Notice was November 12, 2012.

Section 90 of the Act states that documents served in this manner are deemed delivered three days later. Section 53 of the Act allows the effective date of a Notice to be changed to the earliest date upon which the Notice complies with the Act; therefore, I find that the Notice effective date is changed to November 15, 2012.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the tenant had five days to dispute the Notice.

The tenant did file an application, but it was not to dispute the Notice.

The landlord stated that the tenant made no rent payments since the issuance of the Notice and now owes the total amount of unpaid rent of \$1300.00, through the date of the hearing.

Analysis

Based on the evidence submitted and on a balance of probabilities, I find as follows:

I find the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or apply to dispute the Notice within five days of service and 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.

I therefore find that the landlord is entitled to an order of possession for the rental unit effective two days after service of the order upon the tenant.

I also find that the landlord has established a total monetary claim of \$650.00 comprised of outstanding rent for November 2012.

Conclusion

I grant the landlord a final, legally binding order of possession, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit pursuant to the terms of the order, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for \$650.00, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court.

The landlord is at liberty to file an application for dispute resolution for any other outstanding rent owed by the tenant.

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* and is being mailed to both the applicant and the respondent.

Dated: December 06, 2012.

Residential Tenancy Branch