



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPB, OPC, MNR, MND, MNDC, 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 and the tenant.

The parties both acknowledged the tenant is still in the rental unit and as such, I noted that the portion of the landlord's Application seeking compensation for repairs to the rental unit and cleaning of the rental unit are premature because the tenant has until the end of the tenancy to repair and clean the unit and the residential property. I therefore amend the landlord's Application to exclude these matters and note the landlord remains at liberty to file a new Application for Dispute Resolution seeking to claim these damages if the tenant fails to repair or clean the property at the end of the tenancy.

In addition the landlord confirmed that she only issued the 10 Day Notice to End Tenancy for Unpaid Rent and did not issue a notice for any other reason, as such, I also amend the landlord's Application seeking an order of possession based solely on the unpaid rent Notice and not for issues related to cause or breach of an agreement.

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; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 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 August 11, 2012 for a 1 year fixed term tenancy beginning on August 15, 2012 for the monthly rent of \$625.00 due on the 30th of each month and a security deposit of \$312.50 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on December 2, 2012 with an effective vacancy date of December 12, 2012 due to \$625.00 in unpaid rent.

The parties agree the tenant failed to pay the full rent owed for the months of December 2012 and January 2013 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent personally on December 2, 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.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on December 2, 2012 and the effective date of the notice was December 12, 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 and I grant a monetary order in the amount of **\$1,300.00** comprised of \$1,250.00 rent owed and the \$50.00 filing fee paid by the landlord for this Application. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: January 22, 2013

