



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vancouver Eviction Services
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and money owed or compensation for damage or loss, for authority to retain the tenant's security deposit and to recover the filing fee.

The landlord appeared; the tenant did not appear.

The landlord gave evidence that they served the tenant with their Application for Dispute Resolution and Notice of Hearing by registered mail on May 1, 2013. The landlord supplied the receipt containing the tracking number of the registered mail.

I find the tenant was served notice of this hearing 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 her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary issue-The landlord stated that the tenant vacated the rental unit and that therefore they were no longer requesting an order of possession for the rental unit. Additionally, the landlord said that the tenant did not pay a security deposit, so that it was not necessary to consider that request to retain the deposit.

Issue(s) to be Decided

Is the landlord entitled to a monetary order and to recover the filing fee?

Background and Evidence

The landlord gave evidence that this month to month tenancy began on December 15, 2012, monthly rent is \$2500, and as stated, the landlord did not collect a security deposit.

The landlord stated that the tenant had vacated the rental unit by May 11, 2013.

The landlord gave evidence that on April 17, 2013, 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 \$5000 as of April 1, 2013. The effective vacancy date listed on the Notice was April 27, 2013.

Section 90 of the Act states that documents served by posting on the door are deemed delivered three days later. Thus the tenant was deemed to have received the Notice on April 20, 2013, and the effective move out date is automatically changed to April 30, 2013, pursuant to section 53 of the Act.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The landlord stated that the tenant did not make any further rent payments and as of the date of the hearing, the tenant owed \$7500 in unpaid rent. The landlord, in support of their request for loss of revenue or unpaid rent for May, in addition to the tenant still in residence on May 1, 2013, said that the tenant left the rental unit in a state which requires repairs and that the rental unit may not be ready by June 1.

I have no evidence before me that the tenant applied to dispute the Notice.

Analysis

Based on the oral and written evidence 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 listed on the Notice or file an application for dispute resolution in dispute of 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 also accept that the landlord has suffered a loss of revenue for the month of May as the tenant either still resided in the rental unit on May 1, or left the rental unit in such a state that it was not rentable for the month of May.

I therefore find that the landlord has proven an entitlement to a monetary award of \$7600, comprised of unpaid rent listed on the Notice of \$5000, unpaid rent or loss of revenue for the month of May in the amount of \$2500, and the \$100 filing fee paid by the landlord for this application.

Conclusion

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$7600, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from 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: May 28, 2013

Residential Tenancy Branch

