



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNDC, FF / CNC, LRE

Introduction

This hearing concerns 2 applications: i) by the landlord for an order of possession for unpaid rent / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee; and ii) by the tenant for cancellation of a 1 month notice to end tenancy for cause, and an order suspending or setting conditions on the landlord's right to enter the rental unit.

The landlord's agent attended and gave affirmed testimony. The landlord's agent confirmed that the landlord had been served with the tenant's application for dispute resolution and notice of hearing (the "hearing package"). The landlord's agent testified that the landlord's hearing package was served in-person on the tenant on April 17, 2013. Despite all the foregoing particulars related to service of the hearing package(s), the tenant did not appear.

Issue(s) to be Decided

Whether either party is entitled to any of 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 on March 4, 2013. Monthly rent of \$950.00 is due and payable in advance on the first day of each month, and a security deposit of \$475.00 was collected. As the tenant moved into the unit on March 4, 2013, it was agreed that rent for the month of March would be reduced to \$900.00.

By letter dated April 1, 2013, the landlord gave the tenant a "30 day notice to move out" of the unit. In his letter the landlord informed the tenant that he wanted the unit

available for relatives. Thereafter, on April 5, 2013 the tenant filed an application for cancellation of a 1 month notice to end tenancy for cause.

Arising from rent which remained unpaid when due on April 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated April 8, 2013. The notice was served by way of posting on the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is April 18, 2013. The tenant has not amended his original application to include an application to have the landlord's 10 day notice set aside. Subsequently, the tenant has made no further payment toward rent and he continues to reside in the unit.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated April 8, 2013. The tenant did not pay the outstanding rent within 5 days of receiving the notice, and did not apply to dispute that 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 landlord has established entitlement to an **order of possession**.

As for the monetary order, I find that the landlord has established a claim of **\$1,950.00**:

\$950.00: *unpaid rent for April*

\$950.00: *unpaid rent for May*

\$50.00: *filing fee*

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, in part:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all the above, I order that the landlord retain the security deposit of **\$475.00**, and I grant the landlord a **monetary order** under section 67 of the Act for the balance owed of **\$1,475.00** (\$1,950.00 - \$475.00).

The tenant's application is hereby dismissed in its entirety.

Conclusion

I hereby issue an **order of possession** in favour of the landlord 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 landlord in the amount of **\$1,475.00**. Should it be necessary, this order may be served on the tenant, filed in 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: May 03, 2013

Residential Tenancy Branch

