



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR

Introduction

This hearing was convened in response to an amended application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. An Order of Possession - Section 55

Both parties participated in the hearing in the hearing with their submissions, document evidence and testimony during the hearing. The parties also discussed their dispute with a view to a mutual resolution. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The tenancy began in June 2009. Rent is payable in advance on the first day of each month. The original rent amount stated in the tenancy agreement of \$2500.00 was temporarily reduced by the landlord to \$1750.00, as of March 01, 2013. The tenant failed to pay rent in the month of March 2013 and on March 12, 2013 the tenant received the landlord's 10 Day Notice to End Tenancy for non-payment of rent. The tenant subsequently satisfied the rent in part, by paying \$1500.00 on March 25, 2013 which the landlord accepted and provided a receipt "*for use and occupancy only*". The tenant paid the balance of March rent on April 01, 2013 which the landlord again accepted and provided a receipt "*for use and occupancy only*". The landlord accepted \$1500.00 for April 2013 rent and provided a receipt "*for use and occupancy only*." The landlord seeks an Order of Possession as they have lost confidence in the tenant to pay the rent. The parties discussed the tenancy. The landlord agreed to accept an Order of Possession effective June 30, 2013 so as to allow the tenant's children to complete the school year.

Analysis

Based on the testimony and other evidence from both parties, I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant did not apply for Dispute Resolution to dispute the notice within the prescribed and stated 5 days to do so, and under Section 46 of the Act the tenant is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. The tenant may have ultimately satisfied the rent owing, but they did so after the effective date of the Notice and the landlord provided them with notice that they were accepting the rent for use and occupancy only and still intended to end the tenancy. Based on the above facts I find that the landlord is entitled to an **Order of Possession**. At the landlord's request, the Order of Possession will be granted with an effective date of **June 30, 2013**.

Conclusion

I grant an Order of Possession to the landlord effective **June 30, 2013**. If the landlord wants to end the tenancy, the tenant must be served with this **Order of Possession**. 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.

This Decision is final and binding on both parties.

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: April 24, 2013