



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bristol Estates
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, 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 only.

The landlord testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by posting in the tenant's mail slot on May 13, 2013 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenant on the 3rd day after it was posted. Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

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; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 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 April 1, 2011 for a 12 month fixed term tenancy beginning on April 1, 2011 that converted to a month to month tenancy on April 1, 2012 for the monthly rent of \$1,100.00 due on the 1st of each month and a security deposit of \$550.00 was

paid in March 2011 and a pet damage deposit of \$550.00 paid in June 2011.

The agreement stipulates there is a \$25.00 for late payment of rent; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on May 2, 2013 with an effective vacancy date of May 13, 2013 due to \$1,100.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the months of May and June 2013 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on May 2, 2013 at 3:56 p.m. and that this service was witnessed by a third party.

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.

The landlord submits the tenant paid \$325.00 on May 12, 2013 for use and occupancy and that he had later paid rent in full for May including the late payment fee. The landlord testified the tenant still owes \$875.00 for rent and late payment fee for June 2013.

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 May 5, 2013 and the effective date of the notice is amended to May 15, 2013, pursuant to Section 53 of the *Act*. 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 in the amount of **\$925.00** comprised of \$850.00 rent owed; \$25.00 late payment fee and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct this amount from the security deposit and interest held in the amount of \$1,100.00 in satisfaction of this claim, leaving a balance of \$175.00 in the deposits to be dispersed in accordance with the requirements under the *Act* at the end of the tenancy.

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: June 10, 2013

Residential Tenancy Branch

