



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Remax Little Oak Realty
and [tenant name suppressed to protect privacy]

INTERIM 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's agent; the landlord; his translator; and an agent for the tenant.

The tenant's agent testified the tenant was currently in emergency at a local hospital and cannot attend this hearing. The agent requested an adjournment. The landlord's agent objected to an adjournment based on the fact the tenant has failed to pay rent for the entire year and it would greatly prejudice the landlord's interests.

As the landlord is seeking both an order of possession and a monetary order based on a 10 Day Notice to End Tenancy for Unpaid Rent and the tenant did not file an Application for Dispute Resolution seeking to cancel the Notice after receiving the Notice the landlord is entitled to an order of possession pursuant to Section 46(4) of the *Residential Tenancy Act (Act)*.

As such, and with agreement of both parties I grant the landlord an order of possession and adjourn the monetary portion of the hearing to a future date with the notification of the reconvened hearing attached to this interim decision.

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 *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 January 11, 2008 for a month to month tenancy beginning on February 1, 2008

for the monthly rent of \$1,700.00 due on the 1st of each month and a security deposit of \$850.00 was paid; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on June 7, 2013 with an effective vacancy date of June 17, 2013 due to \$10,400.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the months of December 2012 to June 2013 inclusive 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 June 7, 2013.

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 June 10, 2013 and the effective date of the notice is amended to June 20, 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.

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: July 19, 2013

Residential Tenancy Branch