



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, to retain the security deposit, and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on June 14, 2013 at approximately 5 p.m. he personally served the tenant copies of the Application for Dispute Resolution and Notice of Hearing, at the tenant's rental unit. The landlord's cleaner was present as a witness.

These documents are deemed to have been personally served in accordance with section 89 and 90 of the Act; however the tenant did not appear at the hearing.

Preliminary Matter

The landlord has requested compensation for unpaid July 2013 rent in the sum of \$840.00, as the tenant has not vacated and not paid rent. As rent is a basic term of the tenancy and must be paid if the unit is occupied, I amended the application to reflect the claim to include July, 2013.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Is the landlord entitled to a monetary Order for unpaid rent?

May the landlord retain the deposit paid by the tenant?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced on February 1, 2013; rent is \$840.00 due on the 1st day of each month. A security deposit in the sum of \$420.00 was paid.

The landlord stated that on June 2, 2013 a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of June 14, 2013 was personally served to the tenant. The landlord gave the tenant the Notice, at the tenant's unit, between 5 and 6 p.m.; with the landlord's cleaner present as a witness. A copy of the Notice was supplied as evidence.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$840.00 for June rent within five days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

The tenant did not pay the rent owed for June or July 2013.

The landlord has claimed compensation in the sum of \$1,680.00 for unpaid June and July 2013 rent. The landlord has requested an Order of possession.

Analysis

In the absence of evidence to the contrary, I find that on June 2, 2013 the tenant was served with a Notice to End Tenancy that required the tenant to vacate the rental unit on June 14, 2013, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the tenant exercised either of these rights; therefore, pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended effective June 14, 2013. On this basis I will grant the landlord an Order of Possession that is effective two days after the order is served to the tenant.

In the absence of evidence to the contrary, I find that the tenant has not paid rent in the amount of \$1,680.00 for June and July 2013, and that the landlord is entitled to compensation in that amount. The landlord will not have sufficient time to mitigate the loss of July 2013 rent.

I find that the landlord's application has merit and that the landlord is entitled to recover the \$50.00 filing fee from the tenant for the cost of this Application for Dispute Resolution.

I find that the landlord is entitled to retain the tenant's security deposit in the amount of \$420.00, in partial satisfaction of the monetary claim.

The landlord has been granted an Order of Possession that is effective 2 days after service to the tenant. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Based on these determinations I grant the landlord a monetary Order for the balance owed, in the sum of \$1,310.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord is entitled to a monetary Order for unpaid rent.

The landlord is entitled to retain the security deposit.

The landlord is entitled to the filing fee cost.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 12, 2013

Residential Tenancy Branch