



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, OPC, OPB, MNR, MNSD, MNDC, FF

Introduction:

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent, an Order of Possession for Cause; a monetary Order for unpaid rent, a monetary order for money owed or compensation for damage or loss; to retain all or part of the security deposit, and to recover the fee for filing an Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

Issue(s) to be Decided:

Is the Landlord entitled to an Order of Possession; to a monetary Order for unpaid rent; and to keep all or part of the security deposit?

Background and Evidence:

The Landlord and the Tenant agree that this tenancy began on June 01, 2013; that the Tenant was required to pay monthly rent of \$420.00 by the first day of each month; that the Tenant paid a security deposit of \$200.00; that the Tenant has not paid rent for July or August of 2013; that on July 26, 2013 the Tenant was personally served with a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of August 05, 2013; that on June 25, 2013 the Tenant was personally served with a One Month Notice to End Tenancy for Cause, which had a declared effective date of July 26, 2013; and that the Tenant did not file an Application for Dispute Resolution disputing either Notice to End Tenancy.

Analysis

On the basis of the undisputed evidence, I find that the Tenant has not paid the \$420.00 in rent that was due on July 01, 2013 or the \$420.00 in rent that was due on August 01, 2013. As he is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$840.00 in outstanding rent to the Landlord.

If rent is not paid when it is due, a tenancy may be ended pursuant to section 46 of the *Act*. On the basis of the undisputed evidence, I find that the Tenant was personally served with a Ten Day Notice to End Tenancy on July 26, 2013, which required him to vacate the rental unit by August 05, 2013, pursuant to section 46 of the *Act*.

Section 46 of the *Act* stipulates that a tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the Notice to End Tenancy if the tenant does not either pay the outstanding rent or file an Application for Dispute Resolution to dispute the Notice within five days of receiving the Notice to End Tenancy. In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy has ended. On this basis I find that the Landlord is entitled to an Order of Possession.

As the Landlord has established grounds for an Order of Possession pursuant to section 46 of the *Act*, I find there is no need to determine whether the Landlord is also entitled to an Order of Possession pursuant to section 46 of the *Act*.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon 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.

The Landlord has established a monetary claim, in the amount of \$890.00, which is comprised of \$840.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. I authorize the Landlord to retain the security deposit of \$200.00 in partial satisfaction of the monetary claim. Based on these determinations I grant the Landlord a monetary Order for the balance of \$690.00. 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.

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: August 15, 2013

Residential Tenancy Branch

