



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes For the tenant: CNR, LRE
For the landlord: OPR, OPC, MNR, FF

Introduction

This hearing was convened as a result of the cross applications of the parties for dispute resolution under the Residential Tenancy Act (the "Act").

The tenant applied for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") and an order suspending or setting conditions on the landlord's right to enter the rental unit.

The landlord applied for an order of possession for the rental unit due to alleged cause and unpaid rent, a monetary order for unpaid rent, and for recovery of the filing fee.

The landlord appeared; the tenant did not appear.

The landlord gave evidence that he served the tenant with his Application for Dispute Resolution and Notice of Hearing by leaving it with the tenant on July 12, 2013, and with his amended Application for Dispute Resolution by leaving it with the tenant on July 23, 2013.

I therefore find the tenant was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded on the landlord's application in the tenant's absence.

Thereafter the landlord was provided the opportunity to present his evidence orally, refer to documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed the oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary Issue #1-Despite having her own application for dispute resolution set for hearing on this date and time, the application of the landlord and the Notice of these Hearings, the tenant did not appear.

Therefore, pursuant to section 10.1 of the Rules, I dismiss the application of the tenant, without leave to reapply.

Preliminary issue #2-The landlord applied for an order of possession for the rental unit; however, during the hearing the landlord said that the tenant vacated the rental unit prior to the hearing. Therefore I have amended his application and removed this issue for consideration.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation and to recover the filing fee?

Background and Evidence

The landlord gave evidence that this 4 month, fixed term tenancy began on May 1, 2013, that monthly rent is \$1050, due on the last business day of the month, and that the tenant paid a security deposit of \$525 at the beginning of the tenancy.

The landlord said that the tenant vacated the rental unit on July 30, 2013.

The landlord gave evidence that on July 4, 2013, he served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by leaving it with the tenant, listing unpaid rent of \$1050 as of June 28, 2013, the last business day of that month. The effective vacancy date listed on the Notice was July 15, 2013.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The landlord stated that the tenant did make any payments of rent since being issued the Notice and that she owed unpaid rent of \$2100 through the end of July, when the tenancy ended.

The landlord stated that he has returned the tenant's security deposit in full.

The landlord's relevant documentary evidence included a copy of the written tenancy agreement, a copy of the 10 Day Notice, a copy of the 1 Month Notice, bank records, and copies of communication with the tenant.

I note that the tenant applied to dispute the Notice; however the tenant failed to appear at this hearing in order to prove that she did not owe the amount listed on the Notice.

Analysis

Based on the oral and written evidence and on a balance of probabilities, I find as follows:

I find the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or any further rent or appear at the hearing in support of her application that she did not owe the rent listed, and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I also find that, as the tenant failed to vacate the rental unit pursuant to the effective date of the Notice, not leaving until July 30, 2013, the landlord is entitled to a monetary award of \$2150 comprised of outstanding rent of \$2100 for June and July, 2013, and the \$50 filing fee paid by the landlord for this application.

Conclusion

The tenant's application is dismissed.

The landlord's application is granted.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$2150, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

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 12, 2013

Residential Tenancy Branch

