



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Royal Lepage Northstar Realty
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. A monetary Order for compensation – Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application and the amended application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on March 15, 2013. Rent of \$800.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected \$400.00 as

a security deposit from the Tenant. The Tenant's cheque for July 2013 rent was returned NSF and on August 2, 2013 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the door.

The Tenant had a dog in the unit and the Strata rules do not allow pets. It is noted that the tenancy agreement does not include a provision that pets are not allowed and no copy of the Strata rules indicating that pets are not allowed are attached to the tenancy agreement as an addendum. The Landlord confirmed these facts. The Landlord was fined by the Strata for the dog being in the unit and the Landlord claims compensation for these fines from the Tenant.

The Landlord served the Tenant with a one month notice to end tenancy for cause by posting this notice on the door on May 24, 2013 and the Tenant has not disputed this notice. The Landlord states that the Tenant is still in the unit as no keys have been returned. Further the Tenant's car was observed in the parked at the unit and toys were observed on the balcony on August 13, 2013 when the Landlord attended to the unit for an inspection. The keys used by the Landlord did not work in the unit at this time so the inspection was not completed and the Landlord assumes that the Tenant changed the locks to the unit. The Landlord states that the Tenant has avoided the Landlord since sometime in July 2013.

The Tenant has not made an application for dispute resolution of the Notice for unpaid rent, has not paid the arrears and has not paid August 2013 rent. The Landlord claims unpaid rent for July and August 2013.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent (the "Notice") the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based on the Landlord's evidence I find that the Tenant was served with a valid Notice. The Tenant has not filed an application to dispute the Notice and has not paid the outstanding rent. Given these facts, I find that the Landlord is entitled to an **Order of Possession**. I also find that the Landlord has established a monetary claim for **\$1,600.00** in unpaid rent.

Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. As there is no restriction on pets contained in the tenancy agreement and as there is no evidence that the strata rules restricting pets from the unit were added to the tenancy agreement, I find that the Landlord has failed to substantiate that the Tenant failed to comply with the tenancy agreement and I therefore dismiss the claim for fines in relation to the dog being present in the unit.

As the Landlord has been otherwise successful with its application I find that the Landlord is entitled to recovery of the \$50.00 filing fee for a total monetary amount of **\$1,650.00**. Setting the security deposit of \$400.00 plus zero interest off the entitlement leaves **\$1,250.00** owed by the Tenant to the Landlord.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order that the Landlord retain the **deposit** and interest of \$400.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,250.00**. If necessary, this order may be filed in the 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 26, 2013

Residential Tenancy Branch