



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

This hearing was scheduled in response to an application by the landlord for an order of possession / a monetary order as compensation for unpaid rent or utilities / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. The landlord and a family member assisting the landlord attended and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing (the “hearing package”) by way of registered mail, the tenant did not appear. Evidence provided by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was “successfully delivered.”

The landlord testified that rent has presently been paid in full. Further, the landlord testified that most utilities have also been paid, and that if some portion is outstanding, the exact amount is presently unable to be confirmed. In short, the landlord testified that an order of possession is being sought on the basis of cause, and not on the basis of unpaid rent or utilities. Accordingly, I consider the application for an order of possession on the basis of unpaid rent or utilities to be withdrawn.

Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

The unit which is the subject of this dispute is located in a house. The landlord resides on the main level of the house. There are two separate rental units located in the basement level of the house, one of which is rented to this particular tenant.

There is no written tenancy agreement in evidence for the tenancy which began on or about July 1, 2012. Monthly rent of \$770.00 is due and payable in advance on the first

day of each month, and a security deposit of \$385.00 was collected. The landlord testified that certain utilities are shared between the landlord and both tenants. The landlord pays 60% of the utilities, while each of the 2 tenants pays 20% of the utilities.

Pursuant to section 47 of the Act which speaks to **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy dated June 18, 2013. The notice was served by way of posting on the tenant's door on that same date. There are several reasons identified on the notice in support of its issuance. The tenant has not applied to dispute the notice and he continues to reside in the unit.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 1 month notice to end tenancy for cause dated June 18, 2013. As the notice was served by way of posting on the unit door on June 18, 2013, the tenant is deemed to have received the notice 3 days later on June 21, 2013. Subsequently, the tenant did not dispute the notice within the 10 day period available for doing so pursuant to section 47(4) of the Act. The tenant is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

As the end of tenancy approaches, the attention of the parties is drawn to section 38 of the Act which speaks to the **Return of security deposit and pet damage deposit**.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. 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.

As the landlord has been successful in applying for an order of possession, I order that the landlord may withhold **\$50.00** from the tenant's security deposit in order to recover the filing fee.

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: September 04, 2013

Residential Tenancy Branch

