Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNSD, FF
           CNR

Introduction

This hearing concerns 2 applications: i) by the landlord for an order of possession / a monetary order as compensation for unpaid rent / retention of the security deposit / and recovery of the filing fee; and ii) by the tenant for cancellation of a notice to end tenancy for unpaid rent. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

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

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began on May 1, 2013. Monthly rent of $850.00 is due and payable in advance on the first day of each month, and a security deposit of $400.00 was collected.

Arising from rent which remained unpaid for the month of July in the amount of $350.00, the landlord issued a 10 day notice to end tenancy for unpaid rent dated August 1, 2013. While the tenant filed an application to dispute the notice on August 6, 2013, the tenant has made no further payment toward rent 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 testimony, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated August 1, 2013. While the tenant filed an application to dispute the notice within the 5 day period available for doing so after receiving it, the tenant did not pay the full amount of rent outstanding

within 5 days of receiving the notice. The tenant 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. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

As for the monetary order, I find that the landlord has established a claim of **$2,100.00**:

> $350.00: *balance of unpaid rent for July*
> $850.00: *unpaid rent for August*
> $850.00: *unpaid rent for September*
> $50.00: *filing fee*

I order that the landlord retain the security deposit of **$400.00**, and I grant the landlord a **monetary order** for the balance owed of **$1,700.00** ($2,100.00 - $400.00).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective **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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **$1,700.00**. Should it be necessary, this order may be served on the tenant, 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: September 11, 2013

_____
Residential Tenancy Branch