



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, 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 compensation – Section 67; and
3. An Order to recover the filing fee – Section 72.

I accept the Landlord's evidence that the Tenant was served with the 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 Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amount claimed?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy began on November 1, 2012. Rent in the amount of \$1,475.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord

collected a security deposit from the Tenant in the amount of \$737.50. On July 1, 2013, the Landlord served the Tenant personally with a 1 Month Notice to End Tenancy for Cause (the "Notice"). The Notice has an effective date of August 1, 2013. The Tenant has not filed an application to dispute the Notice and has not moved out of the unit.

The Landlord states that the compensation sought is for over-holding rent for September 2013 as the Tenant has paid no rent for this month.

Analysis

Section 53 of the Act provides that where a landlord gives notice to end a tenancy effective on an incorrect date, the notice is deemed to be changed to the earliest date that complies with the Act. Accordingly, the effective date of the Notice is automatically adjusted to August 31, 2013.

Section 47 of the Act requires that upon receipt of a Notice to end Tenancy for Cause, the tenant may, within ten days of receiving the notice, dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does not dispute the Notice, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and must vacate the unit by that date.

Based on the Landlord's undisputed evidence I find that the Tenant was served with the Notice. The Tenant has not filed an application to dispute the Notice and was to have vacated the unit by August 31, 2013. Given these facts, I find that the Landlord is entitled to an **Order of Possession**.

Further based on the Landlord's undisputed evidence, I find that the Landlord is entitled to monies for the occupancy of the unit past August 31, 2013 in the amount of **\$737.50**. This amount reflects a half month's rent. Should the Tenant remain in the unit past September 15, 2013, the Landlord has leave to reapply.

As the Landlord has been successful with its application, I find that the Landlord is also entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$787.50**. Setting the security deposit of **\$737.50** off this amount leaves **\$50.00** owed by the Tenant to the Landlord.

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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 \$737.50 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$50.00**. 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: September 11, 2013

Residential Tenancy Branch