



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MND, MNSD, FF

Introduction

This hearing dealt with an application by the tenant to cancel a Notice to End Tenancy for Unpaid Rent and for the landlord to comply with the Act, Regulation, or tenancy agreement, and an application by the landlord for an order of possession and a monetary order for unpaid rent and other losses.

The landlord attended the hearing and gave affirmed evidence. The tenant did not attend. The landlord gave evidence that she served the tenant with the Notice of a Dispute Resolution Hearing and amended Application for Dispute Resolution by registered mail on December 27, 2013.

Issue(s) to be Decided

Should the Notice to End Tenancy be cancelled?

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and other losses?

Background and Evidence

The landlord gave evidence that she entered into a tenancy agreement with the tenant on November 20, 2013. The rental unit was a fully furnished house in Kelowna. The tenancy agreement specifies that the tenant is obligated to pay \$2,500.00 in rent in advance on the first of day of the month, and a security deposit of \$1,250.00. The landlord's evidence is that the parties agreed to set the rent for the balance of the month of November 2013 at \$600.00. She said the tenant told her at that time that he would be sharing the house with his brother.

The landlord's evidence is that the tenant paid her a total of \$1,600.00 and they agreed that the first \$1,250.00 would be applied to the security deposit and the remaining

amount, \$350.00, would be applied to rent. The landlord has received no further payments from the tenant.

The landlord and tenant arranged by text message to do a move-in inspection at the house on November 29, 2013. The tenant advised by text message that his brother was not going to move in, but some friends would share the house with him instead. The landlord replied by text message that she wished the friends to be co-tenants on the tenancy agreement. The tenant agreed by text message. When the landlord arrived at the house on November 29, 2013, the tenant was not there. She was met by another occupant of the house, who signed a Condition Inspection Report and who was added to the tenancy agreement. She observed at that time that several people appeared to be living in the house.

The landlord served the tenant with a Notice to End Tenancy for Unpaid rent (the "Notice") on December 6, 2013 by posting the Notice on the door of the residence. Section 90 of the Act provides that because the Notice was served by posting it on the tenant's door, the tenant is deemed to have received the Notice three days later on December 9, 2013.

The landlord did not present evidence in support of her monetary claims for damage to the house and for furniture she states was stolen from the house.

Analysis

I find that the tenant received the Notice on December 9, 2013. I accept the landlord's undisputed evidence and I find that the tenant did not pay the rental arrears. The tenant applied to dispute the Notice, however he did not attend the hearing. I find that the tenant was properly served with notice of the hearing. For these reasons, I grant the landlord an order of possession which must be served on the tenant. Should the tenant fail to comply with the order, it may be filed for enforcement in the Supreme Court.

I accept the landlord's undisputed evidence that the tenant has failed to pay either the remaining \$250.00 agreed upon rent for November 2013 or the \$2,500.00 rent for December 2013. The landlord is also entitled to recoup her filing fee of \$50.00. The amount due to the landlord therefore totals \$2,800.00. The landlord is entitled to retain the security deposit of \$1,250.00 in partial satisfaction of the claim. I therefore grant the landlord an order under Section 67 for the balance due of \$1,550.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The landlord did not present evidence to quantify her losses for damage to the residence and loss of furniture. Her application for these damages is therefore dismissed with leave to reapply.

The tenant did not attend the hearing despite being properly served, and so his application is dismissed without leave to reapply.

Conclusion

I grant the landlord an order of possession and a monetary order of \$1,550.00. The landlord is also entitled to retain the security deposit. The tenant's application is dismissed.

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: January 08, 2014

Residential Tenancy Branch