



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order. The hearing was conducted via teleconference and was attended by the landlord and the female tenant.

As neither party had provided a copy of the 10 Day Notice to End Tenancy for Unpaid Rent to the Residential Tenancy Branch and with agreement of both parties I ordered the landlord to provide a copy of the Notice to me no later than 1:00 p.m. on the date of this hearing. The landlord provided a copy of the Notice.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agree the tenancy is a month to month tenancy with a monthly rent of \$650.00 due on the 1st of each month with a security deposit of \$325.00 paid. The landlord purchased the property in April 2013 and the tenancy began in December 2011.

The parties agree the tenants have not paid any rent since December 2013. The tenant submits that they haven't been paying rent because they have had to buy raid to combat bedbugs in the residential property. The landlord submits that he has provided treatment. The tenant submits that the treatment was for the basement and since the treatment downstairs the infestation upstairs has worsened.

The landlord submitted a copy of the 10 Day Notice to End Tenancy for Unpaid Rent issued on February 3, 2014 with an effective vacancy date of February 13, 2014 citing the tenants had failed to pay rent in the amount of \$1,300.00 due for January and February 2014. The tenant confirmed the Notice was received on February 5, 2014

personally from the landlord. The tenants did not file an application to dispute the 10 Day Notice.

Analysis

Section 46 of the *Act* allows a landlord to end a tenancy if rent is unpaid on any day after the day it is due by giving the tenant notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

Section 46(4) goes on to say that within 5 days of receiving such a notice the tenant may pay the overdue rent, in which case the notice has no effect or dispute the notice by making an application for dispute resolution.

And Section 46(5) states that if a tenant who receives a notice under Section 46 does not pay the rent or file an application for dispute resolution within 5 days the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date.

As the tenants have failed to apply to dispute the notice within the 5 days required I find that they are conclusively presumed to have accepted the end of the tenancy.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$2,650.0** comprised of \$2,600.00 rent owed and the \$50.00 fee paid by the landlord for this application. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: April 09, 2014

