



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

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 tenant.

I note that the tenant submitted a camera memory card with some digital evidence. However, the tenant did not provide a written description of the contents of the memory card. The tenant did not provide any confirmation that she had confirmed whether or not the landlord could access the evidence through the memory card. In addition, the Residential Tenancy Branch cannot access this format, as such I have not considered any of the material on the memory card.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

Background and Evidence

The parties agree the tenancy began as a month to month tenancy in July 2012 for the monthly rent of \$1,200.00 due on the 1st of each month. The tenant confirmed in her testimony that she had rented the entire house as a joint tenancy with a third party (A.D.). She states that A.D. was to stay in the basement suite and she had the upstairs.

The landlord provided a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on April 3, 2014 with an effective vacancy date of April 13, 2014 due to \$445.00 in unpaid rent.

The landlord submits the tenant failed to pay the full rent owed for the month of August 2013 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent personally on April 3, 2014.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

The landlord submits that the tenant had paid ½ month's rent for August and still owed \$600.00 but that the landlord had agreed to deduct \$155.00 as reimbursement for costs the tenant incurred in replacing some light fixtures. The landlord seeks a monetary order in the amount of \$445.00.

The tenant submits that A.D. was responsible for the payment of this rent and that he had failed to pay it to the landlord and the tenant should not be held responsible for this unpaid rent. The tenant testified that the landlord and A.D. had known each other for over 20 years and that it was A.D. that informed her of the rental property when they decided to rent the property together.

Analysis

Section 46(1) of the *Act* states that a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

Despite the tenant's testimony Residential Tenancy Policy Guideline 13 defines co-tenants as two or more tenants who rent the same property under the same tenancy agreement. The guideline goes on to say that co-tenants are jointly and severally liable for any debts relating to the tenancy.

As such, based on the tenant's confirmation in her testimony I find that the tenant A.D. and she are jointly and severally responsible for any unpaid rent. Therefore, I find that the landlord is entitled to seek the payment of any outstanding rent from either one of the two co-tenants.

As the tenant did not dispute that there was outstanding rent on the date that the landlord issued the 10 Day Notice, I find the landlord was authorised under the *Act* to issue the Notice pursuant to Section 46(1).

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on April 3, 2014 and the effective date of the notice was April 3, 2014. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenant is conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails 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 I grant a monetary order in the amount of **\$445.00** comprised of rent owed.

This order must be served on the tenant. If the tenant fails 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: May 16, 2014

Residential Tenancy Branch

