



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bristol Estates
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and money owed or compensation for damage or loss, for authority to retain the tenant's security deposit and to recover the filing fee.

The parties attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Neither party raised any issue regarding service of the evidence or application.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, monetary compensation, and to recover the filing fee?

Background and Evidence

The landlord gave evidence that this tenancy began on August 22, 2005, monthly rent is currently \$800, and a security deposit of \$347.50 and a pet damage deposit of \$347.50 were paid by the tenant at the beginning of the tenancy in August, 2005.

The landlord gave evidence that on May 2, 2014, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by attaching it to the tenant's

door, listing unpaid rent of \$575 as of May 2, 2014. The effective vacancy date listed on the Notice was May 12, 2014.

Section 90 of the Act states that documents served by posting on the door are deemed delivered three days later. Thus the tenant was deemed to have received the Notice on May 5, 2014, and the effective move out date is automatically changed to May 15, 2014, pursuant to section 53 of the Act.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The landlord stated that the tenant has not made any further rent payments, and as of the day of the hearing, the tenant owed unpaid rent of \$2175 through July 2014.

The landlord's monetary claim is \$2250, comprised of the unpaid rent of \$2175 and a late payment charge of \$25 each, for May, June and July 2014.

The tenant acknowledged owing this amount and receiving the Notice.

It is noted that the landlord and tenant were calling into the teleconference hearing at the same location, and that after the hearing, the parties were to attempt an agreement to a payment schedule so that the tenancy could continue.

Analysis

Based on the oral and written evidence, I find the landlord submitted sufficient evidence to prove that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice within five days of service and 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.

I therefore find that the landlord is entitled to an order of possession for the rental unit effective two days after service of the order upon the tenant.

I find the landlord submitted sufficient evidence that they are entitled to a monetary award of \$2300, comprised of a rent deficiency of \$2175 through July 2014, late payment fees of \$75, and the \$50 filing fee paid by the landlord for this application.

Conclusion

The landlord's application has been granted.

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit

pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

The landlord has been granted a monetary award in the amount of \$2300.

At the landlord's request, I allow the landlord to retain the tenant's security deposit of **\$347.50 and interest of \$12.30, and the tenant's pet damage deposit of \$347.50 and interest of \$12.30** in partial satisfaction of their monetary award.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$1580.40, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

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* and is being mailed to both the applicant and the respondent.

Dated: July 4, 2014

Residential Tenancy Branch

