



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, OPC, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of possession for unpaid rent and cause, a monetary Order for unpaid rent, to retain the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The agent and landlord provided affirmed testimony that on May 16, 2014 copies of the amended Application for Dispute Resolution and Notice of Hearing were handed to the tenant, at the rental unit. Service occurred in the afternoon. The agent's ex-spouse was also present to witness service.

These documents are deemed to have been served in accordance with section 89 and 90 of the Act; however the tenant did not appear at the hearing.

Preliminary Matters

The landlord has claimed unpaid rent for May 2014 and requested compensation for June 2014 unpaid rent. As rent is the most basic term of a tenancy I determined the application would be amended to include a claim for unpaid June 2014 rent.

The landlord's evidence was given to the tenant on May 18, 2014. The landlord and agent attempted to personally serve the tenant but she refused the documents. The documents were then placed in the tenant's mail slot.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent and cause?

Is the landlord entitled to a monetary Order for unpaid May and June 2014 rent in the sum of \$750.00?

May the landlord retain the security deposit paid by the tenant?

Background and Evidence

The tenancy commenced in October 2011. Rent in the sum of \$975.00 is due on the 1st day of each month. A security deposit in the sum of \$487.50 was paid. A tenancy agreement was signed; a copy was not supplied as evidence.

The landlord receives \$600.00 each month, sent on behalf of the tenant from a government agency. Each month the tenant pays the balance of \$375.00 rent owed.

The landlord has issued receipts for use and occupancy for the payments made directly on behalf of the tenant.

The landlord said the tenant is refusing to pay the balance of rent as the landlord will not authorize a co-tenant.

On May 2, 2014 the landlord and the agent personally served the tenant a 10 day Notice to end tenancy for unpaid rent and a 1 month Notice to end tenancy for cause. Service occurred at approximately 6 p.m., at the rental unit. Copies of both notices were supplied as evidence.

The landlord said that they have been served with notice of a hearing submitted by the tenant to the Residential Tenancy Branch on May 12, 2014. The tenant has requested more time to cancel the Notice issued ending tenancy for unpaid rent and to cancel the Notice. That hearing was not scheduled to be heard at the same time as the landlord's hearing. The landlord applied for dispute resolution on May 9, 2014 and amended the application on May 15, 2014.

As the tenant has an upcoming hearing in relation to the Notice ending tenancy for unpaid rent that matter will not be considered in this decision; with the exception of the claim for unpaid rent.

The 1 month Notice ending tenancy for cause indicated that the tenant could dispute the Notice within 10 days. The Notice indicated that if the tenant did not file an application to dispute the Notice within 10 days the tenant will be considered to have accepted the Notice and must move out of the rental unit by the effective date indicated on the Notice.

The tenant did not dispute the Notice which is effective June 30, 2014.

Analysis

Section 90 of the Act stipulates that a document given personally is deemed served on the day of personal delivery. Therefore, I find that the tenant received the 1 month Notice to end tenancy for cause on May 2, 2014.

Section 47(2) of the Act stipulates that a 1 month Notice to end tenancy for cause is effective 1 month after the date that the tenant receives the Notice. As the tenant is deemed to have received this Notice on May 2, 2014 and rent is due on the 1st day of each month, I find that the earliest effective date of the Notice is June 30 2014.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice ending tenancy that requires the tenant to vacate the rental unit on June 30, 2014, pursuant to section 47(5) of the Act.

In the absence of the tenant, who was served with Notice of this hearing, I find that the tenant has failed to pay rent for May and June 2014 in the sum of \$375.00 each month. Therefore the landlord is entitled to compensation in the sum of \$750.00 for unpaid rent.

I find that the landlord's application has merit and, pursuant to section 72 of the Act that the landlord is entitled to recover the \$50.00 filing fee from the tenant for the cost of this Application for Dispute Resolution.

Pursuant to section 72 of the Act, I find that the landlord is entitled to retain the \$487.50 security deposit in partial satisfaction of the claim.

The landlord has been granted an Order of Possession that is effective **June 30, 2014 at 1 p.m.** This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Based on these determinations I grant the landlord a monetary Order for the balance of \$312.50. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord is entitled to an Order of possession for cause

The landlord is entitled to a monetary Order for unpaid rent.

The landlord may retain the security deposit.

The landlord is entitled to filing fee costs.

The tenant has applied to cancel the 10 day Notice to end tenancy and a hearing is scheduled to be heard.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: June 26, 2014

Residential Tenancy Branch

