



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which the parties agree began in January 2014. There is a dispute around whether the monthly rent is \$800.00 as claimed by the landlord, or \$400.00 as claimed by the tenant. Receipts submitted in evidence appear to support both propositions. While the parties also seem to agree that a security deposit of \$200.00 was collected, documentary evidence provides that a security deposit limited to \$185.00 was collected.

Arising from rent which remained unpaid when due on June 01, 2014, the landlord issued a 10 day notice to end tenancy for unpaid rent dated June 04, 2014. The notice was served in-person on that same date. A copy of the notice was submitted in evidence. While the date shown on the notice by when the tenant must vacate the unit is June 15, 2014, the tenant continues to have possession of the unit.

The landlord's agent testified that the following amounts of rent remain unpaid:

\$350.00: May
\$400.00: June
\$800.00: July

While the tenant disputes the landlord's claim, as above, there are no receipts in evidence to support that any rent was paid for June after issuance of the 10 day notice, and the tenant acknowledges that no rent has been paid for July 2014. Finally, there is no conclusive

documentary evidence before me in relation to the role, if any, the Ministry may play in the payment of rent.

Analysis

Based on the documentary evidence and testimony, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated June 04, 2014. Whatever the amount of rent which currently still remains unpaid, I find that the tenant neither paid the full amount of rent due for June 2014, nor filed an application to dispute the notice. Further, the tenant testified that he has paid no rent for July 2014. In summary, I find that 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. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

In the absence of sufficient conclusive documentary evidence concerning the terms of the tenancy agreement, the amount of monthly rent, or the amounts of rent actually paid and when, with the exception of the application to recover the \$50.00 filing fee, the landlord's application for compensation is hereby dismissed with leave to reapply.

I order that the landlord may withhold \$50.00 from the tenant's security deposit, be it \$200.00 or \$185.00, in order to recover the filing fee. As to the disposition of the balance of the security deposit, the attention of the parties is drawn to section 38 of the Act which speaks to **Return of security deposit and pet damage deposit**.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order that the landlord withhold \$50.00 from the tenant's security deposit in order to recover the filing fee.

All other aspects of the landlord's claim for compensation are hereby dismissed with leave to reapply.

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: July 30, 2014

Residential Tenancy Branch

