



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent or utilities / and recovery of the filing fee. The landlord's agent attended and gave affirmed testimony.

The landlord's agent testified that the application for dispute resolution and the notice of hearing (the "hearing package") was personally served on the tenant on June 05, 2014. Despite this, the tenant did not appear.

Issue(s) to be Decided

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

Background and Evidence

The unit which is the subject of this dispute is located in a side-by-side duplex. The tenant occupies the ground floor portion of one half of the duplex, while another renter occupies the upstairs portion. The landlord occupies the entire upstairs and downstairs portion of the other half of the duplex.

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the month-to-month tenancy began on September 01, 2012. Monthly rent of \$1,000.00 is due and payable in advance on the first day of each month, and a security deposit of \$500.00 was collected. The tenant is responsible for paying 40% of the monthly hydro / gas utilities for ½ of the duplex, while the upstairs renter is responsible for paying the balance of 60%.

Arising from rent and utilities which remained unpaid on May 01, 2014, the landlord issued a 10 day notice for unpaid rent or utilities dated May 04, 2014. The notice was personally served in-person on the tenant on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate

the unit is May 14, 2014. Subsequently, the tenant has made no further payment toward rent or utilities and she continues to reside in the unit.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the application for dispute resolution and the affirmed / undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent or utilities dated May 04, 2014. The tenant did not pay any portion of the outstanding rent or utilities within 5 days of receiving the notice, and did not apply to dispute the notice. The tenant 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. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

As for compensation, I find that the landlord has established a claim of **\$5,050.00**:

\$5,000.00: *unpaid rent for the five months of March, April, May, June & July 2014 (5 x \$1,000.00)*

\$50.00: *filing fee*

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, in part as follows:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all of the above, I order that the landlord retain the security deposit of **\$500.00**, and I grant the landlord a **monetary order** for the balance owed of **\$4,550.00** (\$5,050.00 - \$500.00).

In the absence of any documentary evidence to support the landlord's claim for unpaid utilities (service provider invoices, for example), that aspect of the application is hereby dismissed with leave to reapply.

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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$4,550.00**. This order may be served on the tenant, filed in the Small Claims Court and 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: July 23, 2014

Residential Tenancy Branch

