



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied an order of possession for the rental unit due to alleged cause and a monetary order for unpaid rent, and for recovery of the filing fee paid for this application.

The landlord attended the telephone conference call hearing; the tenant did not attend.

The landlord testified that they served the tenant with the Application for Dispute Resolution, Amended Application for Dispute Resolution and Notice of Hearing by registered mail on July 8, 2014. The landlord supplied testimony of the tracking number of the registered mail, said that the mail was sent to the tenant's address at the rental unit, and that the mail was unclaimed.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing and the landlord's application in a manner complying with section 89(1) of the Residential Tenancy Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present her 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 documentary 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 alleged cause and to an order for monetary compensation for unpaid rent?

Background and Evidence

The landlord submitted evidence that this tenancy began on May 1, 2011, and the tenant's monthly rent obligation is \$510.

The landlord submitted evidence that they served the tenant with a 1 Month Notice to End Tenancy for Cause on May 28, 2014, by attaching it to the tenant's door, listing an effective end of tenancy of June 30, 2014.

The landlord confirmed that the tenant has not vacated the rental unit and has been consistently late in paying rent since February 2014. The landlord submitted further that the tenant now owes a rent deficiency of \$513.47, as was listed on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities served upon the tenant on September 3, 2014.

The Notice explained that the tenant had ten (10) days to file an application for dispute resolution at the Residential Tenancy Branch ("RTB") in dispute of the Notice. It also explains that if the tenant did not file an application to dispute the Notice within ten days, then the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice.

I have no evidence before me that the tenant filed an application to dispute the Notice.

Analysis

Based on the landlord's undisputed oral and written evidence and on a balance of probabilities, I find the tenant was served a 1 Month Notice to End Tenancy for Cause, did not apply to dispute the Notice within ten days of service and is therefore conclusively presumed under section 47(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 further find the landlord submitted sufficient evidence to support their monetary claim for unpaid rent, and I have allowed their request to amend their monetary claim to \$513.47. I therefore grant the landlord a monetary award of \$513.47.

The landlord did not request recovery of the filing fee paid for this application.

Conclusion

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 it is served upon him, this 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 subject to recovery from the tenant.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act in the amount of \$513.47, which is 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*.

Dated: September 5, 2014

Residential Tenancy Branch

