



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR

Introduction

This hearing dealt originally convened through the Direct Request Process on December 15, 2014, and dealt with an Application for Dispute Resolution filed by the Landlord on December 09, 2014, to obtain an Order of Possession for unpaid rent and a Monetary Order for: unpaid rent or utilities. An Interim Decision was issued December 15, 2014 and should be read in conjunction with this Decision.

The hearing was conducted via teleconference and was attended by the Landlord. The Landlord testified that the Tenant was served notice of his application and this hearing by registered mail on December 24, 2014. Canada Post tracking information was provided by the Landlord; therefore, I find the Tenant is deemed served Notice of this proceeding as of December 29, 2014, five days after it was mailed, pursuant to section 90 of the Act. Accordingly, I proceeded in the absence of the Tenant.

Issue(s) to be Decided

1. Has the Landlord proven entitlement to an Order of Possession?
2. Has the Landlord proven entitlement to a Monetary Order?

Background and Evidence

The Landlord submitted evidence that the responding Tenant entered into a written tenancy agreement with a co-tenant for a fixed term tenancy that began on March 1, 2012 and that switched to a month to month tenancy after 12 months. Rent was payable on the first of each month in the amount of \$800.00 and the Tenant(s) paid \$400.00 as the security deposit.

The Landlord testified that sometime in the middle of 2013 the male co-tenant moved out and the Tenant brought in a new co-tenant who had his Income Assistance paid directly to the Landlord. He stated that rent continued to be paid in the total amount of \$800.00 until January 2014 when he received only \$400.00. The Landlord stated that he contacted the Tenant and was told that her roommate had moved out. The Landlord

said that he felt sorry for the Tenant and allowed her some time to get another roommate to help with the rent.

The Landlord submitted that when the Tenant failed to pay the full amount of rent owed for February 2014 he issued her a written notice to end tenancy in a letter format on February 25, 2014. Subsequent letters were written to the Tenant on April 1, 2014 and September 3, 2014 demanding payment of the rent arrears which had accumulated to a total of \$3,600.00 as of September 2, 2014.

The Landlord stated that he was not aware of the required forms until a police officer told him that he had to use the official RTB forms. So on November 20, 2014 the Landlord personally served the Tenant a 10 Day Notice for \$4,800.00 in unpaid rent. The Landlord submitted that the Tenant stopped all rent payments since the 10 Day Notice was issued so he requested the order of possession for as soon as possible.

Analysis

After careful consideration of the foregoing, undisputed documentary evidence, and on a balance of probabilities I find as follows:

The *Residential Tenancy Policy Guideline # 13* defines co-tenants as two or more tenants who rent the same property under the same tenancy agreement. Co-tenants have equal rights under the tenancy and are jointly and severally responsible for any debts or damages relating to the tenancy. That means the landlord can recover the full amount owed from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord.

Based on the evidence before me, I accept that tenancy agreement involved co-tenants and when the male tenant moved out the remaining Tenant was responsible to pay the full amount of rent of \$800.00 per month. I find that the Landlord informed the Tenant of her requirement to pay the full \$800.00 per month rent, in a reasonable amount of time when he issued her the first written letter on February 25, 2014 demanding the rent. Accordingly, I find the Landlord was not estopped from issuing the 10 Day Notice in accordance with section 46 of the Act.

When a tenant receives a 10 Day Notice to end tenancy for unpaid rent they have (5) days to either pay the rent in full or to make application to dispute the Notice or the tenancy ends.

In this case I accept that the Tenant received the 10 Day Notice on November 20, 2014, and the effective date of the Notice was November 30, 2014.

The Tenant neither paid the rent nor disputed the Notice; therefore, the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, **November 30, 2014**, and must vacate the rental unit to which the notice relates pursuant to section 46(5) of the *Act*. Accordingly, I approve the Landlord's request for an Order of Possession.

The Landlord claimed unpaid rent of \$4,800.00 that was due November 1, 2014, in accordance with section 26 of the *Act* which stipulates a tenant must pay rent in accordance with the tenancy agreement. Based on the aforementioned, I award the Landlord accumulated unpaid rent up to November 30, 2014, in the amount of **\$4,800.00**.

Conclusion

I HEREBY FIND the Landlord is entitled to an Order of Possession effective **Two (2) Days after service upon the Tenant**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Supreme Court and enforced as an Order of that Court.

The Landlord has been awarded a Monetary Order for **\$4,800.00**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia 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: January 20, 2015

Residential Tenancy Branch

