



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes For the tenant: CNR, RP, PSF
For the landlord: OPR, MNDC, MNR, MNSD, FF

Introduction

This hearing was convened as the result of the cross applications of the parties for dispute resolution seeking remedy under the Residential Tenancy Act ("Act").

The tenant applied for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("Notice"), an order requiring the landlord to make repairs the rental unit, and an order requiring the landlord to provide services or facilities required by law.

The landlords applied for an order of possession for the rental unit due to unpaid rent, a monetary order for money owed or compensation for damage or loss and for unpaid rent, for authority to retain the tenant's security deposit, and for recovery of the filing fee paid for this application.

The landlords attended the hearing; the tenant did not attend.

The landlord stated that they served the tenant their application for dispute resolution and notice of hearing letter by personal delivery to the tenant on June 10, 2015, the day following their application being filed.

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

Thereafter the landlords were provided the opportunity to present their evidence orally, refer to documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed the oral and written 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.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Procedural matter-Despite having her own application for dispute resolution set for hearing on this date and time, the application of the landlords and the Notices of these Hearings, the tenant did not appear.

Therefore, pursuant to section 10.1 of the Rules, I dismiss the application of the tenant, without leave to reapply.

Issue(s) to be Decided

Are the landlords entitled to an order of possession for the rental unit, to authority to retain the tenant's security deposit, further monetary compensation, and to recover the filing fee?

Background and Evidence

The landlords supplied a written tenancy agreement showing that this tenancy began on December 8, 2014, that monthly rent is \$1000.00, and that the tenant paid a security deposit of \$500.00 at the beginning of the tenancy.

The landlords gave evidence that on June 2, 2015, they served the tenant with their Notice, by leaving it personally with the tenant, listing unpaid rent of \$1000.00 as of June 2, 2015. The effective vacancy date listed on the Notice was June 12, 2015.

The Notice informed the tenant that she had 5 days of receipt of the Notice to file an application for dispute resolution with the Residential Tenancy Branch ("RTB") to dispute the Notice or to pay the rent in full; otherwise the tenant is conclusively presumed to have accepted that the tenancy is ending and must move out of the rental unit by the effective move-out date listed on the Notice.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The tenant did file her application to dispute the Notice, but did not attend the hearing in support of her application and it has been dismissed.

The landlords submitted that since the Notice was issued to the tenant, there have been no payments of rent and the tenant still owes the monthly rent for June 2015. The landlord submitted further that their monetary claim of \$2000.00 encompassed possible unpaid rent for the month of July; however, the landlord submitted further that they did not wish to pursue that part of their claim.

Analysis

I find the landlords submitted sufficient evidence that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, did not pay the outstanding rent within 5 days of receiving the Notice and did not vacate the rental unit. Additionally the tenant did not appear at the hearing in support of her own application. I find 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.

I therefore find that the landlords are entitled to and I grant an order of possession for the rental unit effective 2 days after service of the order upon the tenant. The order of possession for the rental unit is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit pursuant to the terms of the order after being served, the 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 recoverable from the tenant.

I also find that the landlord is entitled to a monetary award of \$1050.00 comprised of outstanding rent of \$1000.00 through June, 2015, and the \$50.00 filing fee paid by the landlord for this application.

At the landlords' request, I allow the landlord to retain the tenant's security deposit of \$500.00 in partial satisfaction of their monetary award.

I grant the landlords a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$550.00, which is enclosed with the landlords' 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.

Conclusion

The tenant's application is dismissed due to her failure to attend the hearing and as I have granted the landlords' application.

The landlords' application for an order of possession for the rental unit and a monetary order is granted.

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: June 26, 2015

Residential Tenancy Branch

