



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord

The landlord testified each tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on May 6, 2015 in accordance with Section 89. Section 90 of the *Act* deems documents served in such a manner to be received on the 5th day after they have been mailed.

Based on the testimony of the landlord, I find that each tenant has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and/or for cause; to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 47, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted into evidence the following relevant documents:

- A copy of a tenancy agreement signed by the parties on March 22, 2015 for a month to month tenancy beginning on April 1, 2015 for the monthly rent of \$925.00 due on the 1st of each month with a security deposit of \$450.00 paid;
- A copy of a 1 Month Notice to End Tenancy for Cause issued on April 20, 2015 with an effective vacancy date of May 31, 2015 citing the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord; seriously jeopardized

the health or safety or lawful right of another occupant or the landlord; put the landlord's property at significant risk; and the tenant has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on May 5, 2015 with an effective vacancy date of May 15, 2015 due to \$335.00 in unpaid rent.

The landlord also provided signed proof of service documents confirming that the 1 Month Notice to End Tenancy for Cause was served by hand delivering it to the tenants on April 20, 2015 at 1:30 p.m. and the 10 Day Notice was served on May 5, 2015 by hand delivering it to the tenants. The documents also submit that this service was witnessed by a third party.

The landlord also testified that the tenants paid only \$590.00 in rent for the month of May and \$375.00 for rent for the month of June 2015.

Analysis

Section 46 of the *Act* states a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy on a date that is not earlier than 10 days after the date the tenant receives the notice. A notice under this section must comply with Section 52 of the *Act*.

Section 46(4) allows the tenant to either pay the rent or file an Application for Dispute Resolution to dispute the notice within 5 days of receipt of the notice.

Section 46(5) states that if a tenant who has received a notice under this section does not pay the rent or make an Application for Dispute Resolution to dispute the notice within the allowed 5 days the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit.

Based on the landlord's undisputed evidence and testimony I find the tenants were served with the 10 Day Notice to End Tenancy for Unpaid Rent as described by the landlord. As there is no evidence before me that the tenant's filed an Application for Dispute Resolution to dispute the 10 Day Notice, I find the tenants are conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit.

As I have determined the tenancy ended as a result of the 10 Day Notice I make no rulings or findings related to the 1 Month Notice to End Tenancy for Cause issued on April 20, 2015.

Based also on the landlord's undisputed evidence and testimony I find the tenants owe the landlord \$885.00 in rental arrears.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$935.00** comprised of \$885.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$450.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$485.00**. This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: June 16, 2015

Residential Tenancy Branch

