



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, 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 and the tenant.

Issue(s) to be Decided

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

Background and Evidence

The landlord submitted into evidence the following documents:

- A copy of a tenancy agreement signed by the parties for a month to month tenancy beginning on November 15, 2012 for the monthly rent of \$400.00 due on the 1st of each month with a security deposit of \$200.00 paid;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on March 12, 2015 with an effective vacancy date of March 21, 2015 citing the tenant had failed to pay rent in the amount of \$800.00; and
- A copy of a Dispute Resolution decision by another arbitrator dated April 28, 2015 after a hearing on April 21, 2015 that was convened based on the tenant's Application for Dispute Resolution seeking to cancel the above noted 10 Day

Notice to End Tenancy for Unpaid Rent and a monetary order. This decision dismissed the tenant's Application in its entirety.

The parties agree the tenant has paid no rent to the landlord for the months of February, March, April, May, or June 2015 and despite being unsuccessful in her Application to have the Notice canceled the tenant continues to occupy the rental unit.

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.

While I accept that the tenant had applied within 5 days of receiving the 10 Day Notice to End Tenancy Unpaid Rent issued by the landlord on March 12, 2015 I note that the tenant's attempt, in the April 21, 2015 hearing, to have the Notice cancelled failed and as such I find the March 12, 2015 Notice is valid and enforceable and the landlord is entitled to an order of possession.

Further, based on the testimony of both parties I find the tenant owes the landlord rent for 5 months in the amount of \$2,000.00.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails 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 **\$2,050.00** comprised of \$2,000.00 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 \$200.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,850.00**. This order must be served on the tenant. If the tenant fails 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 24, 2015

Residential Tenancy Branch

