



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNR, OPR

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 her agent.

The landlord testified the 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)* personally on June 10, 2015 in accordance with Section 89.

Based on the testimony of the landlord, I find that the 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; to a monetary order for unpaid rent and for all or part of the security deposit, pursuant to Sections 38, 46, and 55 of the *Act*.

Background and Evidence

The landlord submitted the tenancy began on December 1, 2013 as a month to month tenancy for the current monthly rent of \$533.00 due on the 1st of each month plus ½ of the utility costs each month being paid to the landlord with a security deposit of \$260.00 paid.

The landlord has submitted into evidence the following relevant documents:

- A copy of a demand letter dated January 21, 2015 advising the tenant that they owe the landlord over \$1,200.00 for utilities but that the landlord is willing to allow the tenant to pay only \$700.00. The letter goes on to advise the tenant that if they do not pay this amount the landlord will require that the tenant moves out of the rental unit;

- A copy of a demand letter dated March 11, 2015 advising the tenant that they owe the landlord over \$1,200.00 for utilities but that the landlord is willing to allow the tenant to pay only \$850.00. The letter goes on to advise the tenant that if they do not pay this amount the landlord will require that the tenant moves out of the rental unit;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated February 3, 2015 with an effective vacancy date of February 15, 2015 citing the tenant owes the landlord \$700.00 in utilities that were demanded on January 21, 2015;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities with an effective vacancy date of April 5, 2015 citing the tenant owes the landlord \$1,200.00 in unpaid utilities.

The landlord also testified the tenant has failed to pay the new rent amount after being issued a Notice of Rent Increase on December 21, 2013 with an effective rent increase starting on February 1, 2015.

The landlord seeks compensation in the amount of \$228.00 for unpaid rent and \$1,000.00 for unpaid utilities as well as an order of possession.

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(6) states that if the tenancy agreement requires the tenant to pay utilities to the landlord and the utility charges are unpaid more than 30 days after the tenant is given a written demand for the payment of them the landlord may treat the unpaid utility charges as unpaid rent and give a notice under Section 46.

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.

As there is no evidence before me that the tenant has paid the outstanding rent or utilities or filed an Application for Dispute Resolution to dispute either one of the above noted Notices, I find the tenant has failed to comply with Section 46(4) and has accepted the end of the tenancy pursuant to Section 46(5).

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 **\$1,228.00** comprised of \$228.00 rent owed and \$1,000.00 for utilities.

I order the landlord may deduct the security deposit and interest held in the amount of \$260.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$968.00**. 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: August 10, 2015

Residential Tenancy Branch

