



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNDC FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, submitted to the Residential Tenancy Branch on May 9, 2016 (the "Application").

The Landlord seeks the following relief pursuant to the *Residential Tenancy Act* (the "Act"): an order of possession for unpaid rent; a monetary order for unpaid rent; a monetary order for money owed or compensation for damage or loss; and an order granting recovery of the filing fee.

The Landlord attended the hearing on his own behalf. To assist with translation from Vietnamese to English, he was assisted by his daughter, T.H. Both provided their solemn affirmation.

The Tenant did not attend the hearing. However, the Landlord's oral testimony confirmed the Notice of a Dispute Resolution Hearing was served on the Tenant, in person, on May 10, 2016. I am satisfied the Tenant was duly served with the Notice of Dispute Resolution Hearing on that date.

The Landlord and T.H. each provided their solemn affirmation, and were given an opportunity to provide evidence orally and in documentary form.

A summary of the Landlord's evidence, derived from the Landlord's documentary evidence and affirmed testimony, is provided below. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent?
2. Is the Landlord entitled to a monetary order for unpaid rent? If so, in what amount?
3. Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The Landlord provided oral testimony concerning the tenancy. He advised that the parties entered into an oral tenancy agreement roughly two years ago. The Tenant rents two rooms at the rental property; he shares kitchen and bathroom facilities other occupants. Rent in the amount of \$300.00 per month is payable to the Landlord.

The Landlord says the Tenant has not paid rent since July 2015, and that he is currently owed \$3,600.00. As a result of the non-payment of rent, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated April 27, 2016 (the "10 Day Notice"). He says the 10 Day Notice was served on the Tenant, in person, on that date.

According to the Landlord, the Tenant continues to occupy the rental unit.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on the balance of probabilities, I find:

The Landlord advised the Tenant was served with the 10 Day Notice on April 27, 2016, in person. I find the Tenant was duly served with the 10 Day Notice on that date.

On receipt of a notice to end tenancy for unpaid rent, section 46 of the *Act* requires a tenant to either pay rent or dispute the notice within five days after receiving it. Failure to do either of these leads to the conclusive presumption that the tenant has accepted the end of the tenancy.

The Tenant was duly served with the 10 Day Notice on April 9, 2016, but has not paid rent or filed an application for dispute resolution. Accordingly, pursuant to section 46 of

the *Act*, I find the Tenant is conclusively presumed to have accepted the tenancy ended on the effective date of the 10 Day Notice.

The Landlord has requested an order of possession. In light of the above, and pursuant to section 55 of the *Act*, I find the Landlord is entitled to an order of possession, which will be effective two days after service on the Tenant.

Further, I find the Tenant owes the Landlord \$3,600.00 in unpaid rent for the months of July 2015 to June 2016.

As the Landlord has been successful, I grant recovery of the \$100.00 filing fee.

Accordingly, pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$3,700.00, which consists of the unpaid rent and the filing fee.

Conclusion

I grant the Landlord an order of possession, which will be effective two days after service on the Tenant. This order may be filed in the Supreme Court of British Columbia and may be enforced as an order of that Court.

In addition, the Landlord is granted a monetary order in the amount of \$3,700.00. This order may be filed in the Provincial Court (Small Claims) 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: June 08, 2016

Residential Tenancy Branch