



Dispute Resolution Services

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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.

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 October 15, 2016 in accordance with Section 89 and that this service was witnessed by a third party.

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; 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 testified the tenancy began in November 2013 as a month to month tenancy for the monthly rent of \$900.00 due on the 1st of each month and a security deposit of \$450.00 and a pet damage deposit of \$450.00 paid.

The landlord submitted into evidence a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on September 22, 2016 with an effective vacancy date of October 2, 2016 due to \$450.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the month of May 2015 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent personally on September 22, 2016 at 6:00 p.m.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days. The landlord testified the tenant has paid some of the outstanding amount leaving a balance owing of \$65.00.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on September 22, 2016 and the effective date of the notice was October 2, 2016. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenant is conclusively presumed under Section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

The landlord acknowledges that she has received payment for use and occupancy of the rental unit for the month of December 2016 and seeks to have the order of possession effective at the end of this month.

Conclusion

I find the landlord is entitled to an order of possession effective **December 31, 2016 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 **\$165.00** comprised of \$65.00 rent owed and the \$100.00 fee paid by the landlord for this application.

I order the landlord may deduct this amount from the security deposit held in the amount of \$450.00 in satisfaction of this claim. I note the balance of the security deposit held will be \$285.00 to be dispersed in accordance with all requirements under the *Act* after the end of the tenancy.

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: December 05, 2016

Residential Tenancy Branch