



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent, an order of possession for cause, money owed or compensation for damage or loss and recovery of the filing fee. Both parties participated in the conference call hearing and gave affirmed testimony.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

This tenancy began January 1, 2008 with monthly rent of \$603.00 and the tenant paid a security deposit of \$310.00.

On June 15, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause:

- The tenant has been repeatedly late paying rent.
- The tenant has allowed an unreasonable number of occupants in the unit/site.
- The tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.

On August 2, 2011 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent. The tenant has not filed to dispute either notice.

The landlord testified that the tenant has been repeatedly late paying the rent and currently owes the landlord \$150.00 in late fee charges. The landlord stated that the rent is due on the first of each month but that the tenant has paid his rent late the following months:

- December 2010 rent paid December 6, 2010
- January 2011, rent paid January 4, 2011
- March 2011, rent paid in full March 17, 2011
- April 2011, rent paid in full April 30, 2011
- May 2011, rent paid in full May 30, 2011
- June 2011, rent paid in full June 20, 2011

- August 2011, rent paid in full August 12, 2011

The landlord stated that the tenant has paid the August 2011 rent in full and that the tenant was provided with a receipt stating '*for use and occupancy only*'. The tenant testified that the landlord must have given him a receipt if he said he did but then commented that he did not believe he was given one as all he remembered having was the receipt for the money order.

The tenant did acknowledge that he had often been late paying his rent and that this was due to problems with his unemployment cheques getting to him in the mail as his March cheque had been lost in the mail. The tenant stated that he had started working as of last week and he did not believe his rent payments would be an issue in the future. The tenant did acknowledge that there is \$150.00 in unpaid late fees owed to the landlord.

The landlord stated that the tenant has continually disturbed the peace and quiet enjoyment of other tenants in the building when he and his friends are outside on the tenant's patio and that for the past 8 months the disturbances have been almost a daily/nightly occurrence. The landlord stated that things start off being quiet but then as the tenant and his guests continue to drink they get very loud and start yelling at people passing by. The landlord stated that numerous tenants have complained about the noise but that they are afraid to put their complaints in writing because they are fearful of some of the tenant's guests.

The tenant stated that the disturbances have all but stopped as he only has friends over once a week now. The tenant also stated that he no longer invites any of the 'rowdy' guests over and that they are no longer welcome at his apartment.

The landlord testified that the tenant had been given 7 or 8 warning letters in the past 8 months and the tenant refuted this testimony stating that he has not had a warning letter in the past year.

The landlord stated that there were issues with the tenant a year ago and as they again have issues he is not willing to continue the tenancy. The landlord also stated that they have had to call the police on numerous occasions to attend at the tenant's unit because of the disturbance being cause by the tenant and his guests.

An end of tenancy date was discussed and the landlord agreed to August 31, 2011.

The landlord in this application is seeking an order of possession for the rental unit and a monetary order for \$150.00 in unpaid late fees.

Analysis

Based on the documentary evidence and testimony I find that the tenant was properly served with a notice to end tenancy for cause. The tenant did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession and a monetary order for unpaid late fees.

The order of possession is also upheld for repeated late payment of rent as the tenant has paid rent late 7 times in the past 9 months and Residential Tenancy Policy Guideline **38 Repeated Late Payment of Rent** speaks to:

Three late payments are the minimum number sufficient to justify a notice under these provisions. It does not matter whether the late payments were consecutive or whether one or more rent payments have been made on time between the late payments.

The landlord in this hearing agreed to an end of tenancy date of August 31, 2011 and the tenant is to vacate by 1:00PM on this date.

As \$150.00 in late fees remains unpaid I find that the landlord is entitled to a monetary order for this amount.

Conclusion

The landlord's Notice to End Tenancy for Cause is upheld with the resulting effect that the tenancy will end on August 31, 2011 at 1:00 PM.

I hereby grant the landlord an **Order of Possession** effective not later than **1:00 PM, August 31, 2011**. This Order must be served on the tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$150.00 in unpaid late fees and I grant the landlord a monetary order under section 67 for the amount of **\$150.00**.

If the amount is not paid by the tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: August 17, 2011.

Residential Tenancy Branch