



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, OPB, MNR, 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's agent and the female 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 and/or for cause; to a monetary order for unpaid rent; and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 47, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenancy began on February 1, 2008 as a month to month tenancy with a current subsidized rent in the amount of \$387.00 per month due on the 1st of each month with a security deposit of \$600.00 paid.

The landlord submitted copies of the following documents:

- A 10 Day Notice to End Tenancy for Unpaid Rent issued by the landlord on July 2, 2011 with an effective vacancy date of July 12, 2011 for unpaid rent in the amount of \$387.00 due on July 1, 2011. The landlord testified this notice was served personally to the male tenant on July 2, 2011; and
- A 1Month Notice to end Tenancy for Cause issued by the landlord on July 2, 2011 with an effective vacancy dated of July 31, 2011 citing the tenants were repeatedly late paying rent and the tenants have breached a material term of the tenancy agreement that was not corrected within a reasonable time after written

notice to do so. The landlord testified this notice was also served personally to the male tenant on July 2, 2011.

The 10 Day Notice states the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days. In addition the tenants failed to pay rent for the month of August 2011.

The 1 Month Notice states the tenants had ten days to apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute this notice within ten days.

The landlord included a Monetary Order Worksheet in her evidence that included charges for cleaning and repairs from a previous tenancy with these tenants.

Analysis

I have reviewed all documentary evidence and testimony and accept that the tenants have been served with the two notices to end tenancy as declared by the landlord. 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.

While I note the tenants also did not dispute the 1 Month Notice to End Tenancy for Cause, I find that since the effective date of the 10 Day Notice has passed and the tenants have still failed to pay the rent for July 2011 and now for August 2011 the effective date of the first notice takes precedence over the 1 Month Notice.

Despite including charges for cleaning in the landlord's Monetary Order Worksheet, I note the landlord did not apply either for compensation for damage to a rental unit or from a violation of the *Act*, regulation or tenancy agreement. I dismiss this portion of the landlord's Application with leave to reapply.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail 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 and I grant a monetary order in the amount of **\$874.00** comprised of \$824 rent and late fees owed and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenants. If the tenants fail 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 15, 2011.

Residential Tenancy Branch