



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPC, MNR, MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Cause; a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present oral evidence, to ask questions, and to make submissions.

At the hearing the Tenant provided her legal name, which is different from the name provided on the Application for Dispute Resolution by the Landlord. With the consent of both parties the Application for Dispute Resolution was amended to reflect the Tenant's correct legal name.

The Tenant stated that the other Respondent, who was not in attendance at the hearing, does not have the same surname as her and that her name is not properly recorded on the Application for Dispute Resolution. At the hearing the Landlord applied to amend the Application for Dispute Resolution by removing the Respondent with the initials "S.C.", and the Application has been amended accordingly.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession; for compensation for unpaid rent; to retain all or part of the security deposit; and to recover the filing fee for the cost of this Application for Dispute Resolution?

Background and Evidence

The Landlord and the Tenant agree that this tenancy began in 2012 and that the Tenant is obligated to pay monthly rent of \$600.00 by the first day of each month. The Landlord stated that the Tenant paid a security deposit of \$300.00 and the Tenant stated that she paid a security deposit of \$280.00.

The Landlord and the Tenant agree that a Notice to End Tenancy for Cause was posted on the door of the rental unit on December 21, 2012, which declared that the Tenant must vacate the rental unit by January 31, 2012. The Tenant acknowledged that she did not dispute this Notice.

The Landlord and the Tenant agreed that rent has been paid for January of 2013 but no rent has been paid for February of 2013.

Analysis

On the basis of the undisputed evidence, I find that on December 21, 2012 the Tenant received a One Month Notice to End Tenancy for Cause, served pursuant to section 47 of the *Act*, which required the Tenant to vacate the rental unit prior by January 31, 2013.

Section 47(5) of the *Act* stipulates that a tenant is conclusively presumed to have accepted that a tenancy ends on the effective date of a notice received pursuant to section 47 of the *Act* and that the tenant must vacate the rental unit by that date unless the tenant disputes the notice within ten days of receiving it. As there is no evidence that the Tenant filed an application to dispute the Notice to End Tenancy, I find that the Tenant accepted that the tenancy was ending on January 31, 2013, pursuant to section 47(5) of the *Act*.

As the Tenant did not vacate the rental unit on January 31, 2013, I find that the Tenant is obligated to pay rent, on a per diem basis, for the days the Tenant remained in possession of the rental unit. I find that the Tenant must compensate the Landlord for the 26 days in February that the Tenant remained in possession of the rental unit, at a daily rate of \$21.43, which equates to \$557.18. I am unable to award additional rent for February, as I cannot be certain the Tenant will remain in the unit after today and the Landlord has not made a claim for lost revenue.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$607.18, which is comprised of \$557.18 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. I authorize the Landlord to retain the security deposit of \$300.00 they stated they collected, in partial satisfaction of this claim.

Based on these determinations I grant the Landlord a monetary Order for the amount \$307.18. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court 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: February 26, 2013

Residential Tenancy Branch

