



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Chilliwack Kiwanis Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Although served with the Application for Dispute Resolution and Notice of Hearing by personal service the Tenant did not appear.

Issue(s) to be Decided

- Is the landlord entitled to an order of possession and, if so, upon what terms?
- Is the landlord entitled to a monetary order and, if so, in what amount?
- Is the landlord entitled to retain the security deposit?

Background and Evidence

This month-to-month tenancy commenced September 1, 2010. The rental unit is for low income families and after various adjustments the tenant's portion of the rent is \$289.00 per month, payable on the first day of each month. The tenant paid a security deposit of \$433.00 at the start of the tenancy.

The landlord testified that the tenant was served with a 10 Day Notice to End Tenancy for Non-Payment of Rent when it was placed in her mail box on July 9, 2014. The landlord testified that a second 10 Day Notice to End Tenancy for Non-Payment of Rent was served on the tenant, in the same manner, on August 7. Although the copies of the notices filed in evidence by the landlord were not signed, the landlord testified that the copies served on the tenant were both signed.

The notices include information advising the tenant that the notice is cancelled if the tenant paid the arrears of rent within five days. It also advises that the tenant has five days to dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. The landlord testified that the tenant did neither.

In September the tenant paid \$839.00 towards unpaid rent and the landlord testified that as of October 3, 2014, the arrears including the October rent, totaled \$511.00. The landlord testified that the tenant was given receipts for each payment made and that each receipt stated that the payments were being accepted for use and occupancy only.

The landlord also testified that because of ? the unit will probably not be re-rented until ?

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant has not paid the outstanding rent in full within the time limit and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the *Residential Tenancy Act* 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 effective two days after service on the Tenant.

I find that the landlord has established a total monetary claim of \$561.00 comprised of arrears of rent in the amount of \$511.00 and the \$50.00 fee paid by the landlord for this application. I order that the Landlord retain the deposit of \$433.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$128.00.

Conclusion

- a. An order of possession effective two days after service on the Tenant has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.
- b. A monetary order in favour of the landlord in the amount of \$128.00 has been granted. If necessary, it 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: October 07, 2014

Residential Tenancy Branch

