



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MNR OPB OPR

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent and for a breach of a material term of the tenancy agreement; a Monetary Order for unpaid rent; and to recover the filing fee associated with this application.

The landlord participated in the hearing and provided affirmed testimony. She testified that she served the Notice of a Dispute Resolution Hearing to the tenant by way of registered mail sent on April 13, 2012, and provided a Canada Post tracking number. The tenant did not participate and the hearing proceeded in the tenant's absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of a basement in a single detached home. Pursuant to a written agreement, the fixed term tenancy started on November 15, 2011 and was to end on November 30, 2012. The rent is \$525.00 per month for the primary tenant, with an

additional \$200.00 per month for a second occupant, and the tenant paid a security deposit of \$262.50.

The landlord testified that the tenant's girlfriend moved into the unit in December 2011 without notifying the landlord. The landlord submitted a monetary claim for unpaid rent as follows:

- Unpaid rent for additional occupant from Dec. 2011 to Feb. 2012: \$ 600.00
- Unpaid rent for March 2012: \$ 725.00
- Late fee: \$ 10.00
- Unpaid rent for April 2012: \$ 725.00
- Late fee: \$ 10.00
- Sub-total: \$2070.00

In her documentary evidence, the landlord provided a copy of the 10 Day Notice to End Tenancy served on the tenant in person on March 2, 2012.

Analysis

I accept the landlord's undisputed testimony that she served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a notice to end tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenant in this matter has not filed an application for dispute resolution. The landlord's Notice to End Tenancy is valid and on that basis the landlord is entitled to an order of possession.

Based on the evidence I accept that the tenant did not pay rent and that the landlord is entitled to recover the loss of rental income as claimed.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant.

This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord established a claim of \$2070.00. I authorize the landlord to retain the tenant's \$262.50 security deposit for a balance owing of \$1807.50. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 67 of the Act, I grant the landlord a Monetary Order totalling \$1857.50.

This Order may be registered in the 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: April 26, 2012.

Residential Tenancy Branch