



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67
3. An Order to retain the security deposit - Section 38
4. An Order to recover the filing fee for this application - Section 72.

I accept the landlord's evidence that despite the tenant having been served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing. The landlord provided a receipt for the registered mail inclusive of the tracking number for the mail. The landlord advised that the registered mail had been returned as not picked up or was otherwise unaccepted by the tenant. Section 90 of the Act deems the tenant served on the 5th day after it is mailed. The landlord testified the tenant has likely not vacated the rental unit.

The hearing proceeded and the landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on February 01, 2012. Rent in the amount of \$825 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$400. The tenant failed to

pay rent in the month of March 2012 and on March 03, 2012 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent for the month of April 2012. The landlord claims they were last aware of the tenant's status in the rental unit 3 weeks prior to this hearing, and have not personally determined if they have since vacated. The landlord relies on another party whom relies on a different party to inform the landlord of a status change. The landlord seeks a quantum of unpaid rent and an Order of Possession.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid the outstanding rent and has not applied 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**.

I also find that the landlord has established a monetary claim for **\$825** in unpaid rent for March 2012. The landlord's claim for April 2012 rent **is dismissed** with leave to reapply for the rent payable for April 2012 in the event the landlord confirms the tenant has not vacated. The landlord is also entitled to recovery of the **\$50** filing fee, for a total entitlement of **\$875.00**. The security deposit will be off-set from the award made herein.

Calculation for Monetary Order

| | |
|--|-----------------|
| Rental Arrears | \$825.00 |
| Filing Fees for the cost of this application | 50.00 |
| Less Security Deposit and applicable interest <i>to date</i> | -400.00 |
| Total Monetary Award | \$475.00 |

Conclusion

I grant an **Order of Possession** to the landlord. The tenant must be served with this Order of Possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I Order that the landlord retain the security deposit of \$400 in partial satisfaction of the claim and **I grant** the landlord a Monetary Order under Section 67 of the Act for the

balance due of **\$475.00**. If necessary, this Order may be filed 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 03, 2012
