



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 concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / retention of the security deposit / and recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony. Despite service of the application for dispute resolution and notice of hearing by way of registered mail, the tenant did not appear. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail.

Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence before me for this tenancy which is understood to have begun approximately three (3) years ago. Monthly rent of \$375.00 is due and payable on the first day of each month, and a security deposit of \$187.50 was collected.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated April 26, 2012. The notice was served by way of posting on the tenant's door on that same date. A copy of the notice was submitted in evidence. The notice documents that as at April 1, 2012, the total amount of overdue rent was \$1,892.50. Subsequently, the tenant made payment in the limited amount of \$300.00, and he continues to reside in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated April 26, 2012. The tenant did not pay the entire amount of rent outstanding within 5 days of receiving the notice and did not apply to dispute the notice.

The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim of \$2,392.50. This is comprised as follows:

[\$1,892.50 (amount shown on 10 day notice dated April 26, 2012)]

\$1,592.50 (balance owed after tenant's \$300.00 payment)

\$375.00 (May 2012)

\$375.00 (June 2012)

\$50.00 (filing fee)

Sub-total: \$2,392.50

I order that the landlord retain the security deposit of \$187.50, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$2,205.00 (\$2,392.50 - \$187.50).

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service of this order on the tenant. This order must be served on the tenant. 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

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of \$2,205.00. Should it be necessary, this order may be served on the tenant, 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: June 4, 2012.

Residential Tenancy Branch