



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Colliers International
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. The landlord's agent attended and gave affirmed testimony.

Despite service of the application for dispute resolution and notice of hearing (the "hearing package") 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 the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy was from September 1, 2007 to August 31, 2008. Thereafter, tenancy has continued on a month-to-month basis. Monthly rent is due and payable in advance on the first day of each month. Presently, the monthly rent is \$779.00. A security deposit of \$337.50 was collected on August 23, 2007.

In response to a previous application by the landlord, a hearing was held in a similar dispute between these parties on May 28, 2012. By decision dated May 28, 2012, an order of possession and a monetary order were issued in favour of the landlord. The monetary order reflected compensation for unpaid rent up to May 31, 2012. Subsequently, the tenancy has continued and the amount of unpaid rent has increased.

Arising from rent over several months which remained unpaid on February 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated February 12, 2013. The notice was served by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail, and a copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is February 22, 2013. Subsequently, the landlord has received no further payment toward rent and the tenant continues to reside in the unit.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

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 February 12, 2013. The tenant did not pay the outstanding rent 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 has established entitlement to an **order of possession**.

As for the **monetary order**, I find that the landlord has established a claim of **\$6,300.00**:

\$747.00: *unpaid rent for July 2012.*

\$5,453.00: *unpaid rent of \$779.00 for each of the 7 months of September, October, November & December 2012, in addition to January, February & March 2013.*

\$100.00: *filing fee.*

Section 72 of the Act speaks to **Director's orders: fees and monetary orders**, in part:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all the above, I order that the landlord retain the security deposit of \$337.50 plus interest of \$6.91 (total: **\$344.41**) and I grant the landlord a **monetary order** under section 67 of the Act for the balance owed of **\$5,955.59** (\$6,300.00 - \$344.41).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective **two (2) days** after service 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 **\$5,955.59**. 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: March 22, 2013

Residential Tenancy Branch

