



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding J. D. Nelson & Assoc. Ltd.
and [tenant name suppressed to protect privacy]

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 & pet damage deposits, and recovery of the filing fee.

Agents representing the landlord 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.

The landlord's agents testified that the evidence package, which includes another copy of the notice of hearing, was also sent by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking number for that 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 is from September 1, 2012 to August 31, 2013. Monthly rent of \$800.00 is due and payable in advance on the first day of each month. A security deposit of \$400.00 and a pet damage deposit of \$400.00 were both collected.

Arising from rent which remained unpaid when due on February 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated February 7, 2013. The notice was served by way of posting on the tenant's door on February 8, 2013. 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 17, 2013. Subsequently, the tenant made the following limited payments toward rent:

\$190.00: *February 15, 2013*

\$400.00: *February 17, 2013*

\$400.00: *March 5, 2013*

No further rent payments have been made and the tenant still resides 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 agents, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated February 7, 2013. The tenant did not pay the full 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 has established entitlement to an **order of possession**.

As for compensation, I find that the landlord has established a claim of **\$660.00**:

\$210.00: *unpaid rent for February (\$800.00 - \$590.00)*

\$400.00: *unpaid rent for March (\$800.00 - \$400.00)*

\$50.00: *filing fee*

Accordingly, I order that the landlord retain **\$660.00** from the combined security & pet damage deposits of \$800.00 when the tenancy ends.

As to the disposition of the balance of **\$140.00** remaining in the combined security & pet damage deposits (\$800.00 - \$660.00), the parties are referred to the statutory provisions set out in section 38 of the Act which speaks to **Return of security deposit and pet damage deposit**.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Sunday, March 31, 2013**. 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.

I order that the landlord retain **\$660.00** from the combined security & pet damage deposits at such time as tenancy ends.

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 14, 2013

Residential Tenancy Branch

