



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR / OPB, MNR, MNSD, FF

Introduction

This hearing concerns an application by the landlords for an order of possession / a monetary order as compensation for unpaid rent / retention of the security deposit / and recovery of the filing fee. One 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 landlords includes the Canada Post tracking number for the registered mail.

Issue(s) to be Decided

Whether the landlords are 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 September 1, 2013. Monthly rent of \$1,150.00 is due and payable in advance on the first day of each month, and a security deposit of \$575.00 was collected.

Arising from rent which remained overdue on January 1, 2013, the landlords issued a 10 day notice to end tenancy for unpaid rent dated January 27, 2013. The notice was served by way of posting on the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the unit by when the tenant must vacate the unit is February 9, 2013. Subsequently, the tenant has made no further payment toward rent and she 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, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated January 27, 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 landlords have established entitlement to an **order of possession**.

As for the monetary order, I find that the landlords have established a claim of **\$5,850.00**, which is comprised as follows:

- \$575.00: unpaid rent for September 2012
- \$575.00: unpaid rent for November 2012
- \$1,150.00: unpaid rent for December 2012
- \$1,150.00: unpaid rent for January 2013
- \$1,150.00: unpaid rent for February 2013
- \$1,150.00: unpaid rent for March 2013
- \$100.00: filing fee

I order that the landlords retain the security deposit of **\$575.00**, and I grant the landlords a **monetary order** under section 67 of the Act for the balance owed of **\$5,275.00** (\$5,850.00 - \$575.00).

The landlords' application for compensation arising from fees assessed by the bank for the tenant's dishonoured cheques is hereby dismissed. In part, this aspect of the application is dismissed in the absence of any documentary evidence in support of the assessment of these fees by the bank. Further, however, section 7 of the Regulation provides that a landlord must not charge an administration fee of this sort "unless the tenancy agreement provides for that fee." I find that there is no such provision in this particular tenancy agreement.

Conclusion

I hereby issue an **order of possession** in favour of the landlords effective not later than **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 landlords in the amount of **\$5,275.00**. 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 07, 2013

Residential Tenancy Branch

