



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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. Both parties attended and gave affirmed testimony.

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 agreement, the fixed term of tenancy is from October 30, 2012 to October 30, 2013. Thereafter, the agreement provides that tenancy may continue on a month-to-month basis. Monthly rent of \$950.00 is due and payable in advance on the 31st day of each month, and a security deposit of \$500.00 was collected.

Arising from rent for January 2013 which was unpaid when due on December 31, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent dated January 5, 201[3]. The notice was served in-person on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is January 15, 2013. The tenant has made no further payment toward rent.

Analysis

Based on the documentary evidence and the testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated January 5, 201[3]. 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 **\$2,900.00**:

\$2,850.00: (3 x \$950.00): *unpaid rent for January, February and March*;

\$50.00: *filing fee*

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, and provides 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.

I order that the landlord retain the security deposit of **\$500.00**, and I grant the landlord a **monetary order** for the balance owed of **\$2,400.00** (\$2,900.00 - \$500.00).

Conclusion

I hereby issue an **order of possession** in favour of the landlord 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 landlord in the amount of **\$2,400.00**. 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: March 19, 2013

Residential Tenancy Branch

