



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 was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on October 1, 2009. Rent in the amount of \$935.00 is payable in advance on the first day of each month. The tenancy agreement provides for a \$25.00 late fee for late rent payments. At the outset of the tenancy, the Landlord collected a \$450.00 security deposit and a \$450.00 pet deposit. The Tenant failed to pay rent February 2013 and on February 2, 2013 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the door.

On February 22, 2013 the Tenant paid \$400.00 towards the rent and on March 5, 2013 the Tenant paid another \$700.00. The Landlord provided the Tenant with a receipt for these payments indicating that the rent monies were accepted for use and occupancy only. The Tenant states that this term was explained to her by the Landlord. The Landlord claims unpaid rent and late payment fees for February and March 2013 later rent payments.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based on the Landlord's evidence I find that the Tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The Tenant has not filed an application to dispute the notice and has not paid the outstanding rent. Given these facts, I find that the Landlord is entitled to an **Order of Possession**. I also find that the Landlord has established a monetary claim for **\$770.00** in unpaid rent plus **\$50.00** for two months of late rent payments. The Landlord is also entitled to recovery of the **\$50.00** filing fee for a total monetary amount of **\$870.00**. I order the Landlord to deduct this amount from the combined security deposit of **\$900.00** in full satisfaction of the entitlement.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. 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 \$870.00 from the **deposit** and interest of \$900.00 in full satisfaction of the claim.

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 11, 2013

Residential Tenancy Branch

