



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Capilano Property Management Services
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent, for authority to retain the tenant's security deposit and to recover the filing fee.

The landlord appeared; the tenant did not appear.

The landlord gave evidence that they served the tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on March 15, 2013. The landlord supplied registered mail receipt showing the tracking number of the registered mail.

I find the tenant was served notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present his evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, a monetary order and to recover the filing fee?

Background and Evidence

The landlord gave evidence that this tenancy began on September 15, 2010, monthly rent is \$625.00, and a security deposit of \$312.50 was paid by the tenant at the beginning of the tenancy.

The landlord gave evidence that on February 2, 2013, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by leaving it with the tenant, listing unpaid rent of \$625.00 as of February 1, 2013. The effective vacancy date listed on the Notice was March 15, 2013.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the tenant had five days to dispute the Notice.

The landlord stated that the tenant made several payments of rent since the Notice was issued, although not within 5 days of the issuance of the Notice, and as of the date of the hearing, the tenant owed \$150.00 in unpaid rent. The landlord also said that the tenant was issued receipts for those rent payments on a "for use and occupancy only" basis and that the tenant was made aware that the landlord intended to act on the Notice through dispute resolution.

I have no evidence before me that the tenant applied to dispute the Notice.

Analysis

Based on the oral and written evidence provided and on a balance of probabilities, I find as follows:

I find the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or apply to dispute the Notice within five days of service and 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.

I therefore find that the landlord is entitled to an order of possession for the rental unit effective two days after service of the order upon the tenant.

I also find that the landlord has established a total monetary claim of \$200.00 comprised of outstanding rent of \$150.00 through April, 2013, and the \$50.00 filing fee paid by the landlord for this application.

Conclusion

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit pursuant to the terms of the order, this order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. Costs of enforcement may be recoverable from the tenant.

At the landlord's request, I allow the landlord to retain the amount of their monetary award of \$200.00 from the tenant's security deposit in 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* and is being mailed to both the applicant and the respondent.

Dated: April 09, 2013

Residential Tenancy Branch

