



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Metamorphic Properties Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, 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, 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 testimony of the tracking number of the registered mail and that the tenant had collected the mail as confirmed by an online search.

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 their 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 one year, fixed term tenancy began on November 1, 2012, was to end on October 31, 2013, monthly rent is \$750.00, and a security deposit was not paid by the tenant.

The landlord gave evidence that on March 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 \$1220.00 as of March 1, 2013. The effective vacancy date listed on the Notice was March 12, 2013.

The Notice also listed the amount of \$125.00 in late payment fees.

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 has not made any further rent payments and as of the date of the hearing, the tenant owed \$1970.00 in unpaid rent, the amount listed on the Notice and \$750.00 for the April 2013 rent.

The landlord has also applied for the rent for May 2013, and registered mail fees of \$12.00.

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

Analysis

Based on the oral and written evidence 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.

As to the landlord's monetary claim, I also find that the landlord has established an entitlement to a monetary award for unpaid rent in the amount of \$1970.00, for the unpaid rent listed on the Notice of \$1220.00, and unpaid rent for April 2013 for \$750.00.

As to the landlord's request for late payment fees, the landlord provided that the tenant has paid rent late for each month of the tenancy, and has therefore incurred a charge of \$25.00 for each of the months. I therefore approve their claim for \$125.00 listed on the Notice and in their application.

As to the landlord's claim for reimbursement of registered mail fees for the service of notice of this hearing to the tenant, the *Act* does not provide for the reimbursement of expenses related to disputes arising from tenancies other than the filing fee. I therefore dismiss their request for \$12.00.

I find the landlord is entitled to recover the filing fee of \$50.00.

I dismiss the landlord's request for unpaid rent for May 2013, as the same is not yet due and payable and as of the day of the hearing, the landlord has not yet suffered a loss for that month. The dismissal of the landlord's claim for May 2013 unpaid rent is with leave to reapply.

Due to the above, I find the landlord has established a total monetary claim of \$2145.00 comprised of outstanding rent of \$1970.00 through April, 2013, \$125.00 for late payment fees, 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 such enforcement may be recoverable from the tenant.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$2145.00, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. Costs of such enforcement may be recoverable from the tenant.

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 10, 2013

Residential Tenancy Branch