



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Boardwalk General Partnership
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, 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 money owed or compensation for damage or loss, 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 27, 2013. The landlord supplied testimony of 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 her 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.

Preliminary issue-The landlord stated that on April 12, 2013, they confirmed that the tenant had vacated the rental unit. I therefore proceeded only on the landlord's request for monetary compensation as the landlord said an order of possession for the rental unit was no longer necessary.

Issue(s) to be Decided

Is the landlord entitled to a monetary order and to recover the filing fee?

Background and Evidence

The landlord gave evidence that this month to month tenancy began on July 1, 2012, monthly rent is \$789.00, and a security deposit of \$394 was paid by the tenant at the beginning of the tenancy.

The landlord gave evidence that on March 8, 2013, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by posting it on the tenant's door, listing unpaid rent of \$483 as of March 1, 2013. The effective vacancy date listed on the Notice was March 18, 2013.

Section 90 of the Act states that documents served by posting on the door are deemed delivered three days later. Thus the tenant was deemed to have received the Notice on March 11, 2013, and the effective move out date is automatically changed to March 21, 2013, pursuant to section 53 of the Act.

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 said that the tenant failed to make any further payments of rent, vacated the rental unit at some point in April 2013 without notice to the landlord and as of the date of the hearing, the tenant owed \$1272.00 in unpaid rent. The landlord also requested a parking fee of \$25 for March and April, each, pursuant to the terms of the tenancy agreement provided into evidence by the landlord.

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.

Pursuant to section 67 of the Act, I also find that the landlord has established a total monetary claim of \$1372 comprised of outstanding rent of \$1272 through April, 2013, \$50 for parking fees for March and April and the \$50 filing fee paid by the landlord for this application.

Conclusion

The landlord's application is granted.

At the landlord's request, I allow the landlord to retain the tenant's security deposit of \$394 in partial satisfaction of the claim.

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 \$978, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement may be recovered 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 24, 2013

Residential Tenancy Branch

