



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kamloops Apartment Rentals Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR and FF

Introduction

Application was made by the landlord on April 22, 2013 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by posting on the tenant's door on April 3, 2013. The landlord also sought a monetary award for unpaid rent and recovery of the filing fee for this proceeding.

By evidence submitted on May 7, 2013 and confirmed at the hearing, the property manager (hereinafter, "the landlord"), advised that the tenant had vacated the rental unit and that the Order of Possession was no longer required.

Despite having been served with the Notice of Hearing in person on April 24, 2013, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issue(s) to be Decided

This application now requires a decision on whether the landlord is entitled to a monetary award for the unpaid rent and filing fee.

Background and Evidence

This tenancy began on or about April 1, 2012 and ended on or about April 28, 2013. Rent was \$750 per month and the landlord stated that there is no record of a security deposit having been paid.

During the hearing, the landlord gave evidence that the Notice to End Tenancy of April 3, 2013 had been served when the tenant had failed to pay the rent due on April 1, 2013 which remained unpaid at the time of the hearing..

She stated that the tenant vacated the rental unit on or about April 28, 2013 without notice and without having provided a forwarding address.

Therefore, the landlord requests a Monetary Order for the unpaid rent for April 2013 and recovery of the filing fee for this proceeding.

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due.

Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenant did not pay the rent within five days of receiving the notice and did not make application to dispute it.

Therefore, under section 46(5) of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy which was April 16, 2013. (As the notice to end was served by posting, it is deemed under section 90 of the *Act* to have been received three days later with an effective date 10 days after that.)

Accordingly, I find that the landlord has lawful Possession.

In the absence of any evidence to the contrary, I find that the landlord is entitled to a Monetary Order for \$750 for the unpaid rent for April 2013.

As the application has succeeded on its merits, I find that the landlord is entitled to recover the \$50 filing fee for this proceeding from the tenant.

Conclusion

The landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for **\$800.00** for service on 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*.

Dated: May 22, 2013

Residential Tenancy Branch

