



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MNDC, MNSD, FF

Introduction:

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, a monetary Order for money owed or compensation for damage or loss; to retain all or part of the security deposit, and to recover the fee for filing an Application for Dispute Resolution.

The Landlord and the male Tenant were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

The Landlord stated that the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence were sent to both Tenants at the rental unit, via registered mail, on May 22, 2013. The Landlord submitted Canada Post documentation that corroborates this statement and the male Tenant acknowledged that the documents were received by both parties. I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the female Tenant did not appear at the hearing.

Issue(s) to be Decided:

Is the Landlord entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent/lost revenue; and to keep all or part of the security deposit?

Background and Evidence:

The Landlord and the Tenant agree that this tenancy began on November 01, 2011; that the Tenant is currently required to pay monthly rent of \$955.00 by the first day of each month; that the Tenant paid a security deposit of \$460.00; that the Tenant has not paid rent for May or June of 2013; that on May 13, 2013 the male Tenant was personally served with a Ten Day Notice to End Tenancy for Unpaid Rent, which has an

effective date of May 23, 2013 and which declares that the Tenant owes \$955.00 in rent that was due on May 01, 2013; and that the Tenant is still residing in the rental unit.

Analysis

Based on the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that requires the Tenant to pay monthly rent of \$955.00 by the first day of each month and that no rent has been paid for May of 2013. As the Tenant is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$955.00 in rent for May of 2013.

If rent is not paid when it is due, a tenancy may be ended pursuant to section 46 of the *Act*. As the Tenant agrees that he was served with a Notice to End Tenancy on May 13, 2013 and that the rent for May is still outstanding, I find that the Landlord has grounds to end this tenancy pursuant to section 46 of the *Act*, and I grant the application for an Order of Possession.

I find that the Tenant fundamentally breached the tenancy agreement when the Tenant did not pay rent when it was due. I find that the Tenant fundamentally breached section 46(5) of the *Act* when the Tenant did not vacate the rental unit by the effective date of the Ten Day Notice to End Tenancy. I find that the continued occupancy of the rental unit makes it difficult, if not impossible, for the Landlord to find new tenants for June 15, 2013. I therefore find that the Tenant must compensate the Landlord for the loss of revenue he is likely to experience between June 01, 2013 and June 14, 2013, which is \$477.50.

I decline to award compensation for any period after June 14, 2013, as it is entirely possible that the Landlord could re-rent the unit on June 15, 2013. The Landlord retains the right to file another claim for lost revenue for any period after June 15, 2013.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$1,482.50, which is comprised of \$1,432.50 in unpaid rent/lost revenue, and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. I authorize the Landlord to retain the Tenant's security deposit, in the amount of \$460.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$1,022.50. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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: June 03, 2013

Residential Tenancy Branch

