



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to retain the security deposit - Section 38;
4. A Monetary Order for compensation – Section 67; and
5. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing.

The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

At the onset of the Hearing it was clarified that only the first named Respondent signed the tenancy agreement and the second named respondent is an occupant. Given the tenancy agreement, I find that the second named respondent is not a Tenant under the tenancy agreement or Act.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on September 18, 2011. Rent of \$2,200.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$1,100.00 and a pet deposit of \$1,100.00. The Tenant owed arrears and failed to pay full rent for April 2013 and on April 4, 2013 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice") by registered mail. The Tenant has not filed an Application for Dispute Resolution, has not paid the arrears or May 2013 rent. The occupants of the unit are in the process of moving out of the unit and have not paid June 2013 rent. The Landlord claims unpaid rent, including June 2013 rent and unpaid utilities.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for unpaid rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based on the Landlord's evidence I find that the Tenant was served with the Notice and I find the Notice to be valid. The Tenant has not filed an application to dispute the notice and has not paid the outstanding rent. Given these facts, I find that the Landlord is entitled to an **Order of Possession**. I also find that the Landlord has established a monetary claim for **\$6,480.46** in unpaid rent including May 2013. As the occupants are still in the unit but are in the process of moving out, I find that the Landlord is entitled to half of June 2012 rent of **\$1,100.00**. Should the occupants remain in the unit past June 15, 2013, the Landlord has leave to reapply.

Further based on undisputed evidence of unpaid utilities, I find that the Landlord has substantiated an entitlement to **\$1,435.32**. The Landlord is also entitled to recovery of the **\$100.00** filing fee for a total monetary amount of **\$9,115.78**. Setting the combined security and pet deposits plus zero interest of **\$2, 200.00** off the entitlement leaves **\$6,915.78** owed by the Tenant to the Landlord.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order that the Landlord retain the **deposit** and interest of \$2,200.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$6,915.78**. If necessary, this order may be filed in the 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 04, 2013

Residential Tenancy Branch

