



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Elizabeth Manor
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, 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; and
4. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the second named Respondent/Tenant was personally served on May 15, 2013 with the application for dispute resolution and notice of hearing by in accordance with Section 89 of the Act. This Tenant did not participate in the conference call hearing. As there is no evidence of service in relation to the first named Respondent/Tenant, I dismiss the application against this Party with leave to reapply in relation to the monetary amounts claimed. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

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 February 1, 2013. Rent of \$725.00 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 Tenants in the amount of \$362.50. The tenancy agreement provides for a \$25.00 late rent fee. The Tenant failed to pay full rent for May 2013 and on May 2, 2013 the Landlord served the Tenant with a 10 notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the door. Although on a previous inspection date the Landlord found the unit apparently and mostly empty and proceeded to change the locks on the unit, on May 27, 2013 the Tenant requested the key to the unit and the Landlord granted the Tenant access to the unit. No rent has been paid for June 2013 and the Landlord believes that the Tenant is still in the unit. The Tenant has not made an application for dispute resolution to dispute the Notice. The Landlord claims unpaid rent for May and June and \$50.00 for the two month's late fees.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of 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 a valid Notice. 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 **\$725.00** for unpaid May 2013 rent, **\$362.50** for June rent to June 15, 2013 and **\$50.00** for two late fees. Should the Tenant remain in the unit after June 15, 2013, I give the Landlord leave to reapply for additional rent. The Landlord is entitled to recovery of the **\$50.00** filing fee for a total monetary amount of **\$1,187.50**. Setting the security deposit of

\$362.50 plus zero interest off the entitlement leaves **\$825.00** 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 \$362.50 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$825.00**. 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 10, 2013

Residential Tenancy Branch

