



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Mainstreet Equity Corp
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, compensation for damage or loss under the Act, to retain all or part of the security deposit, and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that on May 24 2013 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenant via registered mail at the address noted on the Application. A Canada Post tracking number and receipt was provided as evidence of service.

These documents are deemed to have been served in accordance with section 89 and 90 of the Act; however the tenant did not appear at the hearing.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Is the landlord entitled to compensation for loss of rent revenue and unpaid rent?

May the landlord retain the deposit paid by the tenant?

Is the landlord entitled to filing fee costs?

Background and Evidence

A copy of the tenancy agreement supplied as evidence indicated that the tenancy commenced on June 1, 2010; rent was \$600.00, due before the 1st day of each month. A security deposit in the sum of \$300.00 was paid.

The current landlord purchased the rental unit and a service reduction resulted in a decrease in rent owed to \$558.11.

The landlord stated that on April 4, 2013 she posted a Ten Day Notice to End Tenancy for Unpaid Rent, to the tenant's door. The Notice was posted in the morning with another employee present as a witness.

The Notice had an effective date of April 14, 2013 and indicated that the Notice would be automatically cancelled if the landlord received \$720.66 within five days after the tenant was assumed to have received the Notice ((\$162.55 March rent + \$558.11 April rent.) The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice, April 14, 2013, unless the tenant filed an Application for Dispute Resolution within five days.

On April 14, 2013 the tenant paid \$575.00. A copy of a receipt issued for use and occupancy only, was supplied as evidence. No further rent payments have been made.

The landlord claimed compensation as follows:

March 2013 rent	\$162.55
April 2013 rent	558.11
May 2013 rent	558.11
June 2013 loss of rent revenue	558.11
TOTAL	\$1,836.88

Analysis

Section 90 of the Act stipulates that a document that is posted on a door is deemed to be received on the third day after it is posted. I therefore find that the tenant received the Notice to End Tenancy on April 7, 2013.

Section 46(1) of the Act stipulates that a 10 Day Notice to End Tenancy is effective ten days after the date that the tenant receives the Notice. As the tenant is deemed to have received this Notice on April 7, 2013, I find that the earliest effective date of the Notice is April 17, 2013.

Section 53 of the Act stipulates that if the effective date stated in a Notice is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. Therefore, I find that the effective date of this Notice to End Tenancy was April 17, 2013.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice to End Tenancy that required the tenant to vacate the rental unit on April 17, 2013, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. The tenant made a partial payment of \$575.00 on April 14, 2013; insufficient to set aside the Notice as rent owed was \$720.66.

In the circumstances before me I have no evidence that the tenant paid the rent in full or disputed the Notice; therefore, pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended effective April 17, 2013. On this basis I will grant the landlord an Order of Possession that is effective two days after the order is served to the tenant.

In the absence of evidence to the contrary, I find that the tenant has not paid rent in the amount of \$1,261.88 for the balance of April rent; May and June 2013 loss of rent revenue and that the landlord is entitled to compensation in that amount. The sum paid on April 14, 2013 has been deducted from the total amount claimed, as it did not reflect that payment made.

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.

I find that the landlord is entitled to retain the tenant's security deposit in the amount of \$300.00, in partial satisfaction of the monetary claim.

The landlord has been granted 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.

Based on these determinations I grant the landlord a monetary Order in the sum of \$1,011.88. 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.

Conclusion

The landlord is entitled to an Order of possession.

The landlord is entitled to a monetary Order.

The landlord may retain the security deposit.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 21, 2013

Residential Tenancy Branch