



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wall Financial Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MNDC, FF

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee. The landlord's agent attended and gave affirmed testimony.

The agent's request during the hearing to amend the application to include permission to retain the security and pet damage deposits was granted.

The landlord's agent testified that the application for dispute resolution and notice of hearing (the "hearing package") was personally served on tenant "KL" on July 24, 2013. As to tenant "LH," the hearing package was served by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered." Despite all of the foregoing, neither tenant attended.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the tenancy began on September 1, 2012. Monthly rent of \$850.00 is due and payable in advance on the first day of each month. A security deposit of \$425.00 and a pet damage deposit of \$200.00 were collected.

Arising from rent which was unpaid when due on July 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated July 2, 2013. The notice was served by way of posting on the unit door on that same date. A copy of the notice was submitted

in evidence. The date shown on the notice by when the tenants must vacate the unit is July 15, 2013. Subsequently, on July 5, 2013 the tenants made only limited payment toward rent in the amount of \$700.00, and they continue to reside in the unit.

Further to compensation for unpaid rent, fees assessed for late payment of rent, and the filing fee, the landlord also seeks to recover costs arising from pest control services.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated July 2, 2013. The tenants did not pay the full amount of outstanding rent within 5 days of receiving the notice, and did not apply to dispute the notice. The tenants are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

As for the monetary order, I find that the landlord has established a claim of **\$1,090.00**:

\$150.00: *unpaid rent for July (\$850.00 - \$700.00)*

\$20.00: *fee assessed for late payment of rent*

\$850.00: *unpaid rent for August*

\$20.00: *fee assessed for late payment of rent*

\$50.00: *filing fee*

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, in part as follows:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all of the above, I order that the landlord retain the security deposit of

\$425.00 and the pet damage deposit of \$200.00 [total: **\$625.00**], and I grant the landlord a **monetary order** under section 67 of the Act for the balance owed of **\$465.00** (\$1,090.00 - \$625.00).

The landlord's application for recovery of costs associated with pest control is hereby dismissed with leave to reapply for the following reasons:

- i) while the total amount of compensation sought in the application appears to include pest control costs, the narrative in the application makes reference only to unpaid rent and fee(s) assessed for late payment of rent;
- ii) there are no receipts in evidence arising from pest control costs, rather, an accounting of these costs is limited to references included in a copy of the "Resident Ledger" submitted in evidence, and
- iii) the "Resident Ledger" appears to reflect that certain payments were made by the tenants toward the cost of pest control, however, this is not sufficiently clear to support the issuance of a monetary order for any net amount which may still be owed.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenants. This order must be served on the tenants. Should the tenants 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$465.00**. Should it be necessary, this order may be served on the tenants, 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: August 29, 2013

Residential Tenancy Branch

