



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding North Cariboo Realty Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, and FF

Introduction

This application was brought by the landlord on July 24, 2013, amended July 30, 2013, seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by posting on the tenant's door on July 8, 2013. The landlord also sought a monetary award for unpaid rent and recovery of the filing fee for this proceeding. In addition, I have exercised the discretion granted under section 64(3)(c) of the Act to amend the application to request authorization to retain the tenant's security deposit in set off against the balance owed.

Despite having been served with the Notice of Hearing sent by registered mail on August 1, 2013, 2012, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issue(s) to be Decided

This application now requires a decision on whether the landlord is entitled to an Order of Possession and monetary award as requested.

Background and Evidence

This tenancy began on March 1, 2013. Rent is \$525 per month and the landlord holds a security deposit of \$262.50 paid on February 8, 2013.

During the hearing, the landlord gave evidence that the Notice to End Tenancy of July 8, 2013 had been served when the tenant had failed to pay any of the rent due on July 1, 2013.

In the interim, the July rent remains unpaid and the tenant has not paid rent for August or September of 2013.

The landlord stated that she had inspected the rental unit out of concern for the well being of the tenant as there had been no contact for some time. She said that while the tenant's belongings remain in the rental, no one had seen her and police officers had had also enquired after the tenant.

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due.

Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenant did not pay the rent within five days of receiving the notice and did not make application to dispute it.

Therefore, under section 46(5) of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy which was July 21, 2013, taking into account the three days for deemed service of notice served by posting.

Accordingly, I find that the landlord is entitled to an Order of Possession. As the tenant appears to have abandoned the rental unit and her whereabouts is unknown, I set the Order of Possession to take effect 1 p.m. on September 10, 2013.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent for July, August and September 2013, recovery of the filing for this proceeding and authorization to retain the security deposit in set off.

Thus, I find that, at present, the tenants owe to the landlord an amount calculated as follows:

Rent for July 2013	\$ 525.00
Rent for August 2013	525.00
Rent for September 2013	525.00
Filing fee	<u>50.00</u>
Sub total	\$1,625.00
Less retained security deposit (No interest due)	<u>- 262.50</u>
TOTAL	\$1,362.50

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect at 1 p.m. on September 11, 2013.

In addition to authorization to retain the security deposit in set off, the landlord's copy of this decision is also accompanied by a Monetary Order for **\$1,362.50**, enforceable through the Provincial Court of British Columbia, for service on the tenants.

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: September 09, 2013

Residential Tenancy Branch

