



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR, OPR, MNR, MNDC, MNSD, FF

Introduction

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

The Tenant applied on September 11, 2013 for:

1. More time to make an application to cancel a notice to end tenancy – Section 66; and
2. An Order cancelling a notice to end tenancy – Section 46.

The Landlord applied on September 19, 2013 for:

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

Preliminary Matter

Only the Landlord appeared at the Hearing which lasted for twelve (12) minutes. During this time, the Tenant did not appear to present its application. In the absence of the Tenant, the Tenant’s application is dismissed. 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 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 December 1, 2012. Rent of \$625.00 is payable in advance on the first day of each month. The tenancy agreement provides for a \$25.00 late rent fee. At the outset of the tenancy, the Landlord collected \$312.50 as a security deposit from the Tenant. The Tenant owed arrears of \$195.00 for August 2013 and failed to pay the rent for September 2013. On September 5, 2013 the Landlord personally served the Tenant with a 10 notice to end tenancy for unpaid rent (the "Notice"). The Tenant has not has not paid the arrears and has not moved out of the unit. The Landlord claims rental arrears and unpaid rent and late fees for September and October 2013.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent (the "Notice") 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. Although the Tenant did make an application to dispute the notice to end tenancy this application has been dismissed as the Tenant did not appear at the hearing

Based on the Landlord's evidence I find that the Tenant was served with a valid 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 **\$1,495.00** in unpaid rent and late fees (\$195.00 + 625.00 + 25.00 + 625.00 + 25.00). The Landlord is entitled to recovery of the \$50.00 filing fee for a total

monetary amount of **\$1,545.00**. Setting the security deposit of \$312.50 plus zero interest off the entitlement leaves **\$1,232.50** 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 \$312.50 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,232.50**. 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: October 10, 2013

Residential Tenancy Branch

