



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MNSD, MNDC, 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
4. An Order to recover the filing fee for this application - Section 72.

I accept the landlord's evidence that despite the tenant having been served with the application for dispute resolution and notice of hearing by *registered mail* in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing. The landlord provided the tracking information for the registered mail, which the landlord testified had been returned as unclaimed. It must be known that failure to claim registered mail is not a ground for review.

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 21, 2011. Rent in the amount of \$1000.00 is payable in advance on the first day of each month according to the tenancy agreement, although the parties subsequently agreed the tenant could pay \$500 on the first and fifteenth of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$500.00 which the landlord retains in trust. The tenant failed

to pay rent in a series of months and on July 23, 2013 the landlord personally served the tenant with a notice to end tenancy for non-payment of rent and claiming that on July 15, 2013 the tenant owed rent in the amount of \$2500.00. The tenant further failed to pay rent for the months of August, September and October 2013, except for \$400.00 paid on October 20, 2013. The quantum of the landlord's monetary claim is for all rent arrears to date in the sum of \$5100.00.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid the outstanding rent and has not applied for Dispute Resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above 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 \$5100.00 in unpaid rent. The landlord is also entitled to recovery of the \$100.00 filing fee, for a total entitlement of **\$5200.00**. The security deposit will be off-set from the award made herein.

Calculation for Monetary Order

Rental Arrears to October 15, 2013	\$5500.00
<i>Payment toward arrears October 20, 2013</i>	<i>-400.00</i>
Filing Fees for the cost of this application	100.00
<i>Less Security Deposit</i>	<i>-500.00</i>
Total Monetary Award to landlord	\$4700.00

Conclusion

I grant an Order of Possession to the landlord **effective 2 days from the day it is served on the tenant**. 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 security deposit of \$500.00 in partial satisfaction of the claim and I grant the landlord an Order under Section 67 of the Act for the balance due of **\$4700.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

This Decision is final and binding on both parties.

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 28, 2013

Residential Tenancy Branch

