



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Sherlock Ent. Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

CNL, CNC, RP, OPR, MNR, MNSD, MNDC, FF

Introduction:

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, a monetary Order for money owed or compensation for damage or loss; to retain all or part of the security deposit, and to recover the fee for filing an Application for Dispute Resolution.

The Tenant filed an Application for Dispute Resolution in which the Tenant applied to set aside a Notice to End Tenancy for Cause; to set aside a Notice to End Tenancy for Landlord's Use of Property; and for an Order requiring the Landlord to make repairs to the rental unit. The Tenant stated that he intends to vacate the rental unit on November 27, 2013 so he withdrew his Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

The Landlord submitted documents to the Residential Tenancy Branch, copies of which were served to the Tenant. The Tenant acknowledged receipt of the Landlord's evidence and it was accepted as evidence for these proceedings. The Tenant submitted documents to the Residential Tenancy Branch, copies of which were served to the Landlord. The Landlord acknowledged receipt of the Tenant's evidence and it was accepted as evidence for these proceedings.

Issue(s) to be Decided:

Is the Landlord entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; and to keep all or part of the security deposit?

Background and Evidence:

The Landlord and the Tenant agree that this tenancy began on September 24, 2013; that the Tenant agreed to pay monthly rent of \$800.00 by the first day of each month; that the Tenant paid a security deposit of \$400.00; and that the Tenant did not pay any rent for November of 2013.

The Landlord stated that a Ten Day Notice to End Tenancy for Unpaid Rent, which had a declared effective date of November 12, 2013, was posted on the door of the rental unit on November 02, 2013. The Tenant stated that he located the first page of this Notice on his door on November 02, 2013.

The Landlord stated that the second page of the Ten Day Notice to End Tenancy for Unpaid Rent was personally served to the Tenant on November 03, 2013, because the Tenant told him he had received an illegible copy. The Tenant stated that the second page of this Notice was placed through his mail slot on November 03, 2013.

Neither party submitted a copy of the Ten Day Notice to End Tenancy, although they consented to the content of the Notice. The parties agree the Notice to End Tenancy was signed and that it declared that \$800.00 in rent was outstanding.

Analysis

On the basis of undisputed evidence, I find that the Tenant did not pay the \$800.00 in rent that was due for November of 2013. As he is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$800.00 in outstanding rent to the Landlord.

If rent is not paid when it is due, a tenancy may be ended pursuant to section 46 of the *Act*. On the basis of undisputed evidence, I find that the Tenant received both pages of a Ten Day Notice to End Tenancy for Unpaid Rent by November 03, 2013, which were served pursuant to section 46 of the *Act*. As the Notice to End Tenancy was received by the Tenant, I find that the Landlord has the right to end this tenancy pursuant to section 46 of the *Act*. I therefore grant the Landlord's application for an Order of Possession.

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.

Conclusion

I grant the Landlord 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.

The Landlord has established a monetary claim, in the amount of \$850.00, which is comprised of \$800.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Pursuant to section 72(2) of the Act, I authorize the Landlord to retain the Tenant's security deposit of \$400.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$450.00. 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.

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: November 26, 2013

Residential Tenancy Branch

