



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, FF

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; and
2. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord's evidence that the Tenant was served with the application for dispute resolution and notice of hearing by posting on the door in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. 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 recovery of the filing fee?

Background and Evidence

The tenancy began on June 1, 2013. Rent of \$1,100.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected \$550.00 as a security deposit from the Tenant. The Tenant failed to pay rent for October 2013 and on October 4, 2013 the Landlord personally served a 10 notice to end tenancy for unpaid rent (the "Notice") to the Tenant's girlfriend who lives with the Tenant. The Tenant has not made an application for dispute resolution and has not moved out of the

unit. The Tenant has not paid November 2013 rent. The Landlord claims an order of possession.

Analysis

Section 55 of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired. Section 46 of the Act provides that a tenant may, within 5 days after receiving a notice to end tenancy for unpaid rent, pay the overdue rent, in which case the notice has no effect, or dispute the notice by making an application for dispute resolution. If a tenant does not pay the rent or make an application to dispute the notice, the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the unit by the effective date of the notice.

Based on the Landlord's undisputed evidence, I find that the Notice was served on October 4, 2013 and that the Tenant neither paid the rent nor made an application to dispute the Notice. I find therefore that the Tenant must vacate the unit and that the Landlord is entitled to an Order of Possession. As the Landlord has been successful, I find that the Landlord is entitled to recovery of the filing fee and I order the Landlord to retain this amount from the Tenant's security deposit.

Conclusion

I order the Landlord to retain \$50.00 from the security deposit of \$550.00 in full satisfaction of the claim.

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.

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 29, 2013

Residential Tenancy Branch

