



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MILLINGTON MANOR
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on October 10, 2013, by the Landlord to obtain an Order of Possession and a Monetary Order for unpaid rent and or utilities and to recover the cost of the filing fee from the Tenant for this application.

The Landlord submitted documentary evidence which indicates the Tenant was served with copies of the Landlord's application for dispute resolution, Notice of dispute resolution hearing, and the Landlord's evidence, on October 15, 2013, by registered mail. Canada Post receipts were provided in the Landlord's evidence. Based on the submissions of the Landlord I find the Tenant is deemed served notice of this proceeding on October 20, 2013, five days after it was mailed, in accordance with section 90 of the Act; therefore I proceeded in the Tenant's absence.

Issue(s) to be Decided

1. Has the Landlord regained possession of the rental unit?
2. Is the Landlord entitled to a Monetary Order?

Background and Evidence

The Landlord's Agent testified that this tenancy has been going on for over ten years. She did not have a copy of the tenancy agreement in front of her during the hearing so she could not speak to the specific start date. She confirmed that the Tenant paid a security deposit but she did not know the exact amount. Rent is payable on the first of each month in the amount of \$792.68.

The Agent stated that when the Tenant failed to pay the October 1, 2013, rent she issued a 10 Day Notice and posted it to his door on October 4, 2013. The Tenant vacated the unit on October 31, 2013 and did not provide the Landlord with a forwarding

address. The Landlord has regained possession and wished to withdraw their request for an Order of Possession. They wished to proceed with the request for a Monetary Order.

Analysis

Given the evidence before me, in the absence of any evidence from the Tenant who did not appear despite being properly served with notice of this proceeding, I accept the undisputed version of events as discussed by the Landlord and corroborated by their evidence.

The evidence supports that a 10 Day Notice to end tenancy was posted to the Tenant's door on October 4, 2013. The Notice is deemed to have been received by the Tenant three days after it was posted (October 7, 2013) and therefore the effective date of the Notice is corrected to **October 17, 2013**, in accordance with section 53 of the Act.

When a tenant receives a 10 Day Notice to end tenancy for unpaid rent the *Act* stipulates that they have (5) days to either pay the rent in full or to make application to dispute the Notice or the tenancy ends.

In this case the Tenant did not pay the outstanding rent and vacated the property on October 31, 2013. The Landlord has regained possession of the unit and has withdrawn their request for an Order of Possession.

Section 26 of the Act stipulates that a tenant must pay rent when it is due in accordance with the tenancy agreement. In this case the Tenant failed to pay the October 1, 2013 rent and continued to occupy the rental unit until the 31 of October, 2013.

Based upon the undisputed evidence before me, I find the Landlord is entitled to recover unpaid rent for the month of October 2013 in the amount of **\$792.68**.

The Landlord has succeeded with their application; therefore I award recovery of the **\$50.00** filing fee.

Any deposits currently held in trust by the Landlord are to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

Conclusion

The Landlord has been awarded a Monetary Order in the amount of **\$842.68** (\$792.68 + \$50.00). This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be 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 25, 2013

Residential Tenancy Branch

