



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, 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 recover the filing fee for this application - Section 72.

Both parties appeared, and were provided the opportunity to present their evidence orally and in written and document form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence *relevant* to the issues and findings in this matter are described in this Decision.

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 October 01, 2012. Rent in the amount of \$850.00 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$425.00. The tenant failed to pay all rent in the month of October 2013 and on October 28, 2013 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay any rent in the month of November 2013. The tenant still resides in the unit. The landlord's monetary claim is for the unpaid rent for October, November and December 2013.

The tenant acknowledges they only paid \$650.00 for October rent, on or about October 21, 2013, and have not paid rent since - for November or December 2013. They testified that they are in the process of obtaining some financial relief so as to satisfy the unpaid rent. The landlord's response is that they do not sufficiently trust the tenant to resolve the arrears; therefore they seek an Order of Possession.

Analysis

Based on the testimony and document evidence before me 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.

It must be noted that it remains available to the parties to arrive at a mutual alternate resolve to the issues in dispute. None the less, I find that the landlord is entitled to an **Order of Possession**.

I also find that the landlord has established a monetary claim for \$1900.00 in unpaid rent. The landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$1950.00**. Any deposits will be off-set from the award made herein.

Calculation for Monetary Order

| | |
|---|------------------|
| Rental Arrears – October 2013 | \$200.00 |
| Rental Arrears – November 2013 | \$850.00 |
| Rental Arrears – December 2013 | \$850.00 |
| Filing fee | 50.00 |
| <i>Less applicable security deposit</i> | <i>-425.00</i> |
| Total monetary award | \$1525.00 |

Conclusion

I grant an Order of Possession to the landlord **effective 2 days from the day it is served on the tenant**. *If the landlord seeks to act on the Order* the tenant must be served with this Order. 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 in the amount of \$425.00 in partial satisfaction of the claim and **I grant** the landlord an Order under Section 67 of the Act for the balance due of **\$1525.00**. *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: December 05, 2013

Residential Tenancy Branch