



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Hollyburn Estates Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FF, MNDC, MNR, MNSD, OPR

Introduction

This is an application for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, a request for a Monetary Order for outstanding rent and late fees, and a request for recovery of the \$50.00 filing fee.

The applicant testified that the respondent was served with notice of the hearing by registered mail that was mailed on October 24, 2013, however the respondent did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent has been properly served with notice of the hearing.

All testimony was taken under affirmation.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and if so in what amount?

Background and Evidence

The applicant testified that:

- This tenancy began on September 15, 2012 with the monthly rent of \$1225.00, and, at that time, a security deposit of \$612.50 was collected.
- The tenant failed to pay the October 2013 rent, and therefore on October 8, 2013 a 10 day Notice to End Tenancy was posted on the tenant's door.

- The tenant failed to comply with that Notice to End Tenancy, and failed to pay the outstanding rent within the five-day grace period.
- The tenant eventually paid the October 2013 rent on October 24, 2013 however it was accepted for use and occupancy only.
- The tenant has paid no rent for the months of November 2013, the December 2013.
- They are therefore requesting an Order of Possession for as soon as possible and a Monetary Order as follows:

November 2013 rent outstanding	\$1225.00
November 2013 late fee	\$25.00
December 2013 rent outstanding	\$1225.00
Filing fee	\$50.00
Total	\$2525.00

They also request an Order allowing them to keep the full security deposit towards the claim and request a Monetary Order be issued for the balance.

Analysis

It is my finding that the landlord has shown that a valid 10 day Notice to End Tenancy was served on the tenant and that the tenant has failed to comply with that notice.

I also find that the tenant failed to pay the outstanding rent within the five-day grace period, and that any further rent payments have been accepted for use and occupancy only.

I therefore allow the request for an Order of Possession.

It is also my finding that the landlord has shown that rent for the months of November 2013 and December 2013 of \$1225.00 per month is outstanding and I therefore also allow the request for that outstanding rent.

The landlords have a clause in their tenancy agreement that requires the tenant to pay \$25.00 late fee and therefore I also allow the claim for the November 2013 late fee.

As I've allow the full amount claimed, I also Order recovery of the filing fee.

Conclusion

I have allowed the landlords full claim of \$2525.00 and I therefore Order that the landlord may retain the full security deposit of \$612.50, and I've issued a Monetary Order in the amount of \$1912.50.

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 04, 2013

Residential Tenancy Branch

