



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HFBC Housing Foundation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR
MT, CNR

Introduction

This hearing concerns 2 applications: i) by the landlord for an order of possession for unpaid rent; and ii) by the tenant for more time to make an application to cancel a notice to end tenancy / and cancellation of a notice to end tenancy for unpaid rent.

The landlord's agent attended and gave affirmed testimony. The landlord's agent testified that the landlord received the tenant's hearing package. Further, the landlord's agent testified that the landlord's application for dispute resolution and notice of hearing (the "hearing package") were served on the tenant by way of registered mail. Evidence provided by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "unclaimed by recipient."

Despite all of the foregoing, the tenant did not appear at the hearing.

Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the tenancy began on December 15, 2011. Monthly rent of \$650.00 is due and payable in advance on the first day of each month, and a security deposit of \$300.00 was collected.

Arising from rent which remained unpaid when due on November 1, 2013, pursuant to section 46 of the Act which speaks to **Landlord's notice: non-payment of rent**, the landlord issued a 10 day notice to end tenancy dated November 5, 2013. The notice was served in-person on November 6, 2013. A copy of the notice was submitted in

evidence. The date shown on the notice by when the tenant must vacate the unit is November 16, 2013. The tenant filed an application to dispute the notice on November 13, 2013, and the landlord's agent testified that the tenant paid the outstanding rent (\$650.00) and cable (\$23.00) sometime thereafter. The landlord's agent also testified that December's rent was paid very late in December and that no rent has presently been paid for January 2014. It is uncertain whether the tenant still resides in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated November 5, 2013. The tenant did not pay the outstanding rent within 5 days of receiving the notice, or file an application to dispute the notice within 5 days of receiving it. As to his application for more time to dispute the notice, the tenant has not provided any written explanation or testimony around why his application was not filed in a timely manner. The tenant's application is therefore dismissed, and I find that the landlord has established entitlement to an **order of possession**.

As to the disposition of the security deposit, the parties are referred to section 38 of the Act which speaks to **Return of security deposit and pet damage deposit**.

Conclusion

The tenant's application is hereby dismissed.

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. 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: January 07, 2014

Residential Tenancy Branch

