



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Coldwell Banker City Centre Realty
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR OPC MNR MNSD MNDC FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

The landlord participated in the teleconference hearing, but the tenant did not call into the hearing. The landlord submitted evidence that they personally served the tenant with the application for dispute resolution and notice of hearing on December 18, 2013. I accepted the landlord's evidence regarding service and I proceeded with the hearing in the absence of the tenant.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Background and Evidence

The tenancy began on May 1, 2013. The rental unit is in a strata building, and the tenant signed the required Form K and was given a copy of the strata rules. Rent in the amount of \$1400 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 \$700.

On November 7, 2013 the landlord served the tenant a notice to end tenancy for repeated late payment of rent.

The tenant failed to pay rent in the month of December 2013 and on December 2, 2013 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent in the month of January 2014. The landlord has claimed \$2800 in unpaid rent and lost revenue, as well as \$400 in strata fees and fines and \$25 for an NSF cheque in December 2013.

The Landlord's evidence included the following:

- a copy of a residential tenancy agreement, signed by the tenant and the landlord, indicating a monthly rent of \$1400 due on the first of each month;
- a copy of the form K signed by the tenant;
- a copy of the strata fees incurred by the tenant, comprised of \$200 for a moving fee and \$200 for a noise violation fine, and letters from the strata regarding the tenants' noise violations;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on December 2, 2013, with an effective vacancy date of December 14, 2013, for failure to pay rent in the amount of \$1400 that was due on December 1, 2013;
- testimony that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the notice on the rental unit door on December 2, 2013; and
- a copy of the Landlord's Application for Dispute Resolution, filed December 18, 2013, in which the landlord detailed the monetary claim.

Analysis

I have reviewed all evidence and I accept that the tenant was served with the December 2, 2013 notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on December 5, 2013.

I accept the evidence before me that the tenant has failed to pay the rent owed within the five days granted under section 46(4) of the Act. I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. The landlord is therefore entitled to an order of possession.

As I am issuing an order of possession pursuant to the December 2, 2013 notice to end tenancy for unpaid rent, it is not necessary for me to consider the portion of the

landlord's application regarding an order of possession pursuant to the November 7, 2013 notice to end tenancy for cause.

As for the monetary order, I find that the landlord has established a claim for \$2800 in unpaid rent and lost revenue. I am also satisfied, based on the evidence noted above, that the tenants are responsible for the \$400 strata fees and fines, and the \$25 NSF fee for their December 2013 cheque. The landlord is also entitled to recovery of the \$50 filing fee.

Conclusion

I grant the landlord an order of possession effective two days from service. The tenant must be served with the 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.

The landlord is entitled to \$3275. I order that the landlord retain the security deposit of \$700 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2575. This order may be filed in the 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: January 29, 2014

Residential Tenancy Branch

