



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR 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 served the tenant with the application for dispute resolution and notice of hearing by registered mail on December 13, 2013. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I found that the tenant was deemed served with notice of the hearing on December 18, 2013, 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 September 1, 2011. Rent in the amount of \$1150 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 \$200. The tenant failed to pay full rent for several months and on October 30, 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 months of November and December 2013 and January 2014.

The Landlord's evidence included the following:

- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on October 30, 2013, with an effective vacancy date of November 15, 2013, for failure to pay rent in the amount of \$5899.46 that was due on October 1, 2013;
- a ledger of the tenant's rent payments for 2013, showing that as of October 1, 2013 the tenant owed \$5899.46 in unpaid rent;
- evidence that on November 4, 2013 the tenant received and signed for the mail package containing the 10 Day Notice to End Tenancy for Unpaid Rent;
- a copy of the Landlord's Application for Dispute Resolution, filed December 10, 2013, in which the landlord indicated that the tenant had failed to pay rent for November and December 2013, and in which the landlord also claimed anticipated lost revenue for January 2014; and
- testimony that the tenant did not make any payments toward outstanding rent after receiving the notice to end tenancy.

Analysis

I have reviewed all evidence and I accept that the tenant was served with the notice to end tenancy as declared by the landlord.

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 for the monetary order, based on the above-noted evidence I find that the landlord has established a claim for \$9349.46 in unpaid rent and lost revenue. The landlord is also entitled to recovery of the \$100 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 \$9449.46. I order that the landlord retain the security deposit of \$200 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$9249.46. 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 30, 2014

Residential Tenancy Branch

