



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, CNR, MNR, RR, OPR, MNSD, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The Tenant applied on November 26, 2013 for:

1. An Order cancelling a Notice to End Tenancy – Section 46;
2. A Monetary Order for compensation or loss - Section 67;
3. An Order for the Landlord to provide services or facilities required by law - Section 65; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord applied on November 26, 2013 for:

1. An Order of Possession - Section 55;
2. An Order for unpaid rent or utilities - Section 67;
3. A Monetary Order for compensation – Section 67; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant did not appear to pursue its application. Given this lack of appearance, I dismiss the Tenant’s application. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

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 was pre-existing at the time the Landlord purchased a house containing the rental unit. Rent of \$850.00 per month was payable on the first day of each month. The previous owner had given the Tenants in the basement unit a two month notice to end tenancy with an effective move out date of September 30, 2013. The Landlord took possession of the house on October 1, 2013 however the Tenants were still in the unit

and the one tenant died on October 6, 2013. The Tenant paid \$425.00 for November 2013 rent and on November 18, 2013 the Landlord personally served the Tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice"). The Tenant has not paid the arrears or any further rent and has not moved out of the unit. The Landlord claims unpaid rent.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent (the "Notice") the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Based on the Landlord's undisputed evidence I find that the Tenant was given a valid Notice. Although the Tenant filed an application to dispute the Notice, this application has been dismissed as the Tenant did not appear and it is also noted that the Tenant did not file the application within the required time. Given these facts, I find that the Landlord is entitled to an **Order of Possession**. I also find that the Landlord has established a monetary claim for **\$2,125** in unpaid rent for November to January 2013 inclusive. The Landlord is entitled to recovery of the \$50.00 filing fee for a total monetary amount of **\$2,175.00**.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **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.

I grant the Landlord an order under Section 67 of the Act for **\$2,175.00**. If necessary, 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 16, 2014

Residential Tenancy Branch

