



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent, and to recover the filing fee.

The landlord and his agent attended; the tenant did not attend the telephone conference call hearing.

The landlord gave evidence that he served the tenant with the Application for Dispute Resolution and Notice of Hearing personally by leaving the documents with the tenant the first week of November 2013.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing in a manner complying with section 89(1) of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, monetary compensation and to recover the filing fee?

Background and Evidence

The landlord gave evidence that this tenancy began 6 years ago, monthly rent is \$400, and a security deposit of \$200 was paid by the tenant at the beginning of the tenancy.

The rental unit is in the basement level and the landlord lives in the upper level.

The landlord gave evidence that on September 10, 2013, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by attaching it to the tenant's door, listing unpaid rent of \$540 as of September 10, 2013. The effective vacancy date listed on the Notice was September 30, 2013. The landlord supplied a copy of the Notice.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The landlord stated that the tenant has not made any rent payments since issuance of the Notice, and as of the date of the hearing, the tenant owed \$2140 in unpaid rent.

In response to my question the landlord responded that he has not acted sooner on enforcement of the Notice due to the long term tenancy and attempting to give the tenant a chance to begin paying rent.

I have no evidence before me that the tenant applied to dispute the Notice.

Analysis

Based on the oral and written evidence submitted by the landlord and on a balance of probabilities, I find as follows:

I find the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice within five days of service and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I therefore find that the landlord is entitled to an order of possession for the rental unit effective two days after service of the order upon the tenant.

I also find that the landlord is entitled to a monetary award of \$2190 comprised of outstanding rent of \$2140 through January 2014, and the \$50 filing fee paid by the landlord for this application.

Conclusion

The landlord's application has been granted.

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit pursuant to the terms of the order after being served, the order may be filed in the

Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the amount of his monetary award, in the amount of \$2190, which I have enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

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 21, 2014

Residential Tenancy Branch

