



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BRISTOL ESTATES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR MNSD FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on November 13, 2013, by the Landlord to obtain an Order of Possession for unpaid rent and a Monetary Order for: unpaid rent, to keep the security and pet deposits; and to recover the cost of the filing fee from the Tenant for this application.

The Landlord testified that her and the building manager personally served the Tenant with copies of the Landlord's application for dispute resolution, Notice of dispute resolution hearing, and the Landlord's evidence, on November 16, 2013. Based on the submissions of the Landlord I find the Tenant was sufficiently served notice of this proceeding, in accordance with section 89 of the Act. Therefore, I proceeded in the Tenant's absence.

Issue(s) to be Decided

1. Has the Landlord regained possession of the rental unit?
2. Is the Landlord entitled to a Monetary Order?

Background and Evidence

The Landlord submitted evidence which indicates the Tenant entered into a fixed term tenancy agreement that began on March 1, 2009 and switched to a month to month tenancy after February 28, 2010. Rent was initially payable on the first of each month in the amount of \$655.00 and was increased to \$670.00 per month effective October 1, 2011.

The Landlord testified that when the Tenant failed to pay the \$70.00 balance due from October 2013 and did not pay the \$670.00 November 1, 2013 rent they posted a 10 Day Notice to his door on November 2, 2013.

The Landlord advised that the Tenant vacated the property by November 30, 2013, so they are withdrawing their request for an Order of Possession. They wish to proceed with the request for a Monetary Order.

Analysis

In this case the Tenant is deemed to have received the 10 Day Notice on November 5, 2013, three days after it was posted to his door, and the effective date of the Notice is **November 15, 2013**, in accordance with section 90 of the Act. The Tenant did not pay the rent and vacated the property on or before November 30, 2013. The Landlord withdrew their request for an Order of Possession.

The Landlord claimed unpaid rent of \$740.00 which was due November 1, 2013, (October \$70.00 + November \$670.00). The Tenant failed to pay rent in accordance with the tenancy agreement which is a breach of section 26 of the Act. Accordingly, I award the Landlord a Monetary Award for unpaid rent of **\$740.00**.

The Landlord has been successful with their application; therefore I award recovery of the **\$50.00** filing fee

Monetary Order – I find that the Landlord is entitled to a monetary claim and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenant's security and pet deposits plus interest as follows:

Unpaid Rent,	\$740.00
Filing Fee	<u>50.00</u>
SUBTOTAL	\$790.00
LESS: Pet Deposit of \$327.50 + Interest 0.00	-327.50
LESS: Security Deposit \$327.50 + Interest 0.00	<u>-327.50</u>
Offset amount due to the Landlord	<u>\$135.00</u>

Conclusion

The Landlord has been awarded a Monetary Order in the amount of **\$135.00**. This Order is legally binding and must be served upon the Tenant. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia 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 08, 2014

Residential Tenancy Branch

