



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC IMC Realty Corporation dba Panarama Tower
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution 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. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail deemed delivered December 2, 2013, the Tenant did not appear.

Issue(s) to be Decided

- Is the landlord entitled to an order of possession and, if so, upon what terms?
- Is the landlord entitled to a monetary order and, if so, in what amount?
- Is the landlord entitled to retain the security deposit?

Background and Evidence

This tenancy commenced October 1, 2007 as a one year fixed term tenancy and has continued thereafter as a month-to-month tenancy. Currently, the monthly rent, which is due on the first day of the month, is \$1804.00. In addition to the rent, the tenant must also pay a monthly parking fee of \$47.00, also due on the first day of the month. The tenant paid a security deposit of \$775.00 on September 6, 2007.

The landlord testified that the tenant was served with a 10 Day Notice to End Tenancy for Non-Payment of Rent when it was posted at the rental unit on November 14, 2013. That document includes information advising the tenant that the notice is cancelled if the tenant paid the arrears of rent within five days. It also advises that the tenant has five days to dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

The landlord testified that the tenant paid \$3900.00 on December 1 and has not made any payment since bringing the arrears of rent, including January, to \$3316.00.

The landlord also testified that they have not been served with an application for dispute resolution by the tenant.

The written tenancy agreement provides for a late payment fee of \$25.00 and the landlord claims the late payment fee for October, November, December, and January

for a total of \$100.00. The landlord also claims the parking fee for December and January – a total of \$94.00.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The tenant did not pay the outstanding rent within the required time period and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the *Residential Tenancy Act* to have accepted that the tenancy ended on the effective date of the Notice. Based on the above facts I find that the landlord is entitled to an order of possession effective two days after service on the tenant.

I find that the landlord has established a total monetary claim of \$3610.00 comprised of arrears of rent in the amount of \$3316.00, late payment fees of \$100.00, parking fees of \$94.00 and the \$100.00 fee paid by the landlord for this application. I order that the Landlord retain the deposit and interest of \$790.41 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$2819.59.

Conclusion

- a. An order of possession effective two days after service on the Tenant has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.
- b. A monetary order in favour of the landlord in the amount of \$2819.59 has been granted. If necessary, it may be filed in the Provincial Court (Small Claims) 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 23, 2014

Residential Tenancy Branch

