



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOLLYBURN ESTATES LTD.
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 on November 27, 2013, the tenant did not appear. A Canada post tracking number was provided as evidence. I find that the tenant has been duly served in accordance with the Act.

The landlord's agent appeared, gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Issues to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

Based on the testimony of landlord's agent I find that the tenant was served with a notice to end tenancy for non-payment of rent on November 8, 2013, by posting to the door of the rental unit, which was witnessed. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The landlord's agent testified that tenant did not pay rent within five days. The agent stated on November 29, 2013, the tenant paid the balance of rent owed in full. However, they issued a receipt for use of occupancy only. The agent stated the tenant has failed to pay rent for January 2014, and seeks to recover unpaid rent in the amount of \$1,075.00.

The landlord's agent testified that they seek to recover the late fee of \$25.00, as specified in the tenancy agreement.

Analysis

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

The tenant had not paid the outstanding rent and did not apply to dispute the Notice within five days, 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 find that the landlord is entitled to an order of possession effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord has established a total monetary claim of **\$1,150.00** comprised of unpaid rent and late fee for January rent and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the deposit and interest of \$537.50 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$612.50**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The tenant failed to pay rent and did not file to dispute the notice to end tenancy within five days after it was received. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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 17, 2014

Residential Tenancy Branch