



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, FF

Introduction:

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, and to recover the fee for filing an Application for Dispute Resolution.

The Agent for the Landlord stated that on January 15, 2014 the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence were sent to each Tenant, via registered mail, at the rental unit. The Landlord submitted a Canada Post receipt that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however neither Tenant appeared at the hearing.

Issue(s) to be Decided:

Is the Landlord entitled to an Order of Possession for unpaid rent and a monetary Order for unpaid rent?

Background and Evidence:

The Agent for the Landlord stated that this tenancy began on December 11, 2011; that the rental unit is a single family dwelling; that the tenancy included the entire single family dwelling; and that the Tenant agreed to pay monthly rent of \$1,400.00 on the first day of each month.

The Agent for the Landlord stated that the Tenants are no longer living in the rental unit however a portion of the unit is occupied by persons who the Tenant's allowed to occupy the rental unit.

The Agent for the Landlord stated that the Tenant only paid \$700.00 of the rent that was due for December of 2013; that the Tenant paid no rent for January of 2014; and that the Tenant paid no rent for February of 2014.

The Agent for the Landlord stated that a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of January 12, 2014, was personally served to the Tenant with the initials "K.I." on January 02, 2014. The Landlord submitted a Proof of Service which corroborates this testimony.

Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that requires the Tenant to pay monthly rent of \$1,400.00 by the first day of each month.

On the basis of the undisputed evidence, I find that the Tenant did not pay \$700.00 of the rent that was due for December of 2013 and \$1,400.00 of the rent that was due for January of 2014. As the Tenant is required to pay rent when it is due, pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$2,100.00 in outstanding rent to the Landlord.

Section 46 of the *Act* authorizes a landlord to end a tenancy if rent is not paid when it is due. On the basis of the undisputed evidence, I find that on January 02, 2014 the Tenant with the initials "K.I." was personally served with a Notice to End Tenancy, pursuant to section 46 of the *Act*.

Section 46 of the *Act* stipulates that a tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the Notice to End Tenancy if the tenant does not either pay the outstanding rent or file an Application for Dispute Resolution to dispute the Notice within five days of receiving the Notice to End Tenancy. In these circumstances I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy ended on the effective date of the Notice. On this basis I find that the Landlord is entitled to an Order of Possession.

As the Tenant did not vacate the rental unit on the effective date of the Notice to End Tenancy, which was January 12, 2014, I find that the Tenant is obligated to pay rent, on a per diem basis, for the days the Tenant remained in possession of the rental unit. As the Tenant has already been ordered to pay rent for the period between January 13, 2014 and January 31, 2014, I find that the Landlord has been fully compensated for that period. As the rental unit has remained occupied for 20 days in February, I find that the Tenant must compensate the Landlord for those days, at a daily rate of \$50.00, which equates to \$1,000.00.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$3,150.00, which is comprised of \$3,100.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for the amount of \$3,150.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, 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: February 20, 2014

Residential Tenancy Branch

