



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0896572 BC LTD
and [tenant name suppressed to protect privacy]

REVIEW DECISION

Dispute Codes: OPR, MNR

Introduction

This Review Hearing was convened in response to a successful Application for Review by the tenants pursuant to an *ex-parte Decision* of a Direct Request application by the landlord. In that Decision the landlord was granted an Order of Possession which is currently suspended pending the outcome of this hearing. A new participatory hearing was granted pursuant to the landlord's original application under the *Residential Tenancy Act* (the Act) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;

As a result of the Review Consideration Decision, the tenants were provided Notice of today's hearing which were ordered served on the landlord by the tenant. Both parties participated in today's Review hearing with their submissions, document evidence and testimony during the hearing. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

Issue(s) to be Decided

Is the notice to end tenancy valid?
Is the landlord entitled to an Order of Possession?
Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The parties confirmed the tenant still resides in the unit. The tenancy began on December 16, 2014. According to the tenancy agreement rent in the amount of \$750.00 is payable in advance on the first day of each month. A security deposit was not collected in this matter. The landlord claims the tenant failed to pay rent in the month of February 2014 and served the tenant with a 10 Day Notice to End for Unpaid Rent in the early part of February 2014 and, relevantly again, on February 21, 2014 the landlord served the tenant with another Notice. The tenant acknowledges personally receiving the second Notice to End and acknowledges they did not dispute the Notice

within the prescribed time to do so: by February 26, 2014. The landlord filed an application via the Direct Request provisions on February 27, 2014.

It must be noted that in this matter the parties agree that the residential complex contains an *office* staffed by the property manager or one of their associates; and, that all rent payments are transacted in person through the *office*.

The tenant claims they paid the rent for February 2014, on or about February 01, 2014 by placing an envelope under the door of the property manager's *personal suite*, containing \$375.00 in cash, and a cheque for \$375.00. The tenant testified they have not done this before, but did on this occasion in accordance with a note on the landlord's *office* door instructing them to do so. The tenant testified they were not witnessed placing the envelope under the door of the property manager's private suite.

The landlord denies receiving the tenant's rent by the above method or any other method. The landlord's property manager testified they have, "never previously received anything" destined for the landlord other than through their *office*, nor previously accepted anything other than through their *office*. The landlord testified they have never informed any tenant by any means to stray from the practice of transacting payments of rent through their *office*, partly to avoid situations as before this hearing. The landlord also testified they always supply a receipt for paid rent. The tenant acknowledges that the landlord always provides receipts for paid rent – but claims, "did not do so for this payment of rent".

The tenant acknowledges they failed to pay rent for the month of March 2014 in the amount of \$750.00, because of the current dispute.

Analysis

On preponderance of the testimony of both parties as well as all other evidence in this matter, I find that the tenant has not sufficiently supported their position that they paid the rent for February 2014. I further find that having received the landlord's Notice to End it was available to the tenant to dispute the Notice, effectively the landlord's claims of unpaid rent, within the required time to assert their disagreement, but did not do so. I find that I prefer the landlord's testimonial evidence that they have a system by which they transact the payment of rent and that it includes a dedicated office for doing same - away from the property manager's private suite, and it does not serve them or their staff to sway from this system. As a result of all the above I find the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. I find the tenant has not paid the outstanding rent and has not applied for Dispute Resolution to dispute the notice and is therefore conclusively presumed 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**, and **I hereby confirm** the Order of Possession previously made on March 06, 2014 stands and is of full effect.

I also find that the landlord has established a monetary claim for unpaid rent comprised of the payable rent for February and March 2014 in the sum amount of **\$1500.00**.

Conclusion

I hereby confirm the Order of Possession dated March 06, 2014. Should the tenant fail to comply with the Order, the Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I grant the landlord a Monetary Order under Section 67 of the Act for the amount of **\$1500.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

This Decision is final and binding on both parties.

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: March 24, 2014

Residential Tenancy Branch

