



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to an application by the landlord pursuant to 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;
3. An Order to retain the security deposit - Section 38
4. An Order to recover the filing fee for this application - Section 72.

I accept the landlord's evidence that despite the tenant having been served with the application for dispute resolution and notice of hearing by *registered mail* in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing. The landlord provided proof of mail registration service.

The landlord was given full opportunity to be heard, to present evidence and to make submissions.

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 tenancy began on February 15, 2012. Rent in the amount of \$1162.75 has previously been payable. Rent in the amount of \$1192.41 is payable as of March 01, 2014, in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$572.50 which they hold in trust. The tenant failed to pay rent in the month of January 2014 and on January 07, 2014 the landlord served the tenant with a notice to end tenancy for non-payment of rent. On January 29, 2014 the tenant satisfied the rent and was given a receipt for *use and occupancy only*. The tenant further failed to pay rent in the month of

February 2014 and on February 06, 2014 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The following day the tenant satisfied a portion of the rent and was given a receipt for *use and occupancy only*. On February 26, 2014 the tenant satisfied the remainder of rent for February and was given a receipt for *use and occupancy only*. The tenant further failed to pay rent when due in the month of March 2014 and on March 06, 2014 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The landlord testified that subsequent partial rent for March 2014 has been rendered, but not confirmed paid. The landlord seeks the rent for March 2014 from which they will deduct all paid rent.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant did not pay the outstanding rent within the prescribed time to do so and did not apply 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. Despite the tenant ultimately satisfying the unpaid rent they did not do so until beyond the effective date of the Notice and the landlord accepted payments of rent for *use and occupancy only*.

Based on the above facts I find that the landlord is entitled to an **Order of Possession**.

I find that the landlord has established a monetary claim for unpaid rent and the landlord is also entitled to recovery of the \$50.00 filing fee. The security deposit will be off-set from the award made herein.

Calculation for Monetary Order

Rent for March 2014	\$1192.41
Filing Fees for the cost of this application	50.00
<i>Less Security Deposit</i>	<i>-572.50</i>
Total Monetary Award to landlord	\$669.91

Conclusion

I grant an Order of Possession to the landlord **effective 2 days from the day** the landlord serves the tenant with this Order. The tenant must be served with this **Order of Possession** and the landlord has discretion as to when they serve the Order within the Month of March 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 Order that the landlord retain the deposit of \$572.50 in partial satisfaction of the claim and I grant the landlord an Order under Section 67 of the Act for the balance due of

\$669.91. 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 11, 2014

Residential Tenancy Branch

