



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Hollyburn Properties Limited
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent.

The landlord attended the teleconference hearing and gave evidence, however the tenant did not attend. The landlord gave evidence that he served the tenant with the Notice of a Dispute Resolution Hearing and Landlord's Application for Dispute Resolution by registered mail on February 21, 2014.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The landlord provided a copy of the tenancy agreement which indicates the tenancy started on February 1, 2013 and the tenant was initially obligated to pay \$1,200.00 rent monthly in advance on the first day of the month, and \$50.00 per month for parking. The tenant also paid a security deposit of \$600.00 and a parking remote deposit of \$100.00. The landlord provided a copy of a Notice of Rent Increase dated October 8, 2013 which indicates that the rent was increased to \$1,220.00 monthly effective February 1, 2014.

The landlord's evidence is that the tenant's payment for February rent and parking was disallowed by his financial institution due to insufficient funds, and the landlord's financial institution charged the landlord an NSF fee of \$35.00.

The landlord gave evidence that he served the tenant with a Notice to End Tenancy for Unpaid Rent (the "Notice") on February 7, 2014 by posting the Notice on the tenant's door. Section 90 provides that a notice served in this manner is deemed to have been received by the tenant three days later, on February 10, 2014. The Notice states that the tenant failed to pay rent of \$1,220.00 that was due on February 1, 2014.

The landlord gave evidence that the tenant has not made any further payments since the Notice was served.

The landlord claims the following:

Unpaid Rent (February, March, April)	3,660.00
Unpaid Parking (February, March, April)	150.00
NSF Charge	35.00
Late fee	25.00
RTB filing fee	<u>50.00</u>
<i>Total claim:</i>	<i>\$ 3,920.00</i>

Analysis

I find the tenant received the Notice on February 10, 2014. I accept the landlord's evidence that the tenant has made no further payments. According to Section 46(5), if a tenant does not pay the rent or make application for dispute resolution within five days of receiving the Notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. For these reasons, I find that the landlord is entitled to an order of possession. I grant the landlord an order of possession which must be served on the tenant. Should the tenant fail to comply with the order, it may be filed for enforcement in the Supreme Court.

I accept the landlord's evidence that the tenant continues to occupy the rental unit. For that reason, I find it is appropriate that I allow the landlord to amend his Application for Dispute Resolution to include a claim for April 2014 rent and parking. The landlord is entitled to recover three months' rent, which totals \$3,660.00, and three months' parking, which totals \$150.00. I find the landlord is also entitled to the \$25.00 late fee, which is provided for in the tenancy agreement. The landlord is also entitled to recover the \$35.00 NSF charge paid to his financial institution and his RTB filing fee of \$50.00.

The total amount due the landlord is \$3,920.00. I order that the landlord retain the security deposit of \$600.00 in partial satisfaction of the claim and I grant the landlord an

order under section 67 for the balance due of \$3,320.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord an order of possession and a monetary order for \$3,320.00.

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: April 11, 2014

Residential Tenancy Branch

