Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Columbia Property Management Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes   OPR MNR MNSD MNDC FF

Introduction

This hearing dealt with an application 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.

The landlord participated in the teleconference hearing, but the tenant did not call into the hearing. The landlord submitted evidence that they served the tenant with the application for dispute resolution and notice of hearing by registered mail on February 20, 2014. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I found that the tenant was deemed served with notice of the hearing on February 25, 2014, and I proceeded with the hearing in the absence of the tenant.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?
Is the landlord entitled to a monetary order?

Background and Evidence

The tenancy began on September 1, 2013. Rent in the amount of $850 is payable 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 $425. The tenant failed to pay rent in the month of February 2014 and on February 6, 2014 the landlord served the tenant with a notice to end tenancy for non-payment of rent. On March 10, 2014 the tenant paid the rent owing for February 2014 and $200 toward rent for March 2014, but she failed to pay any rent after that date. The landlord has claimed $650 in outstanding

rent for March 2014, $850 for April 2014, $248.99 for unpaid hydro up to December 12, 2013 and $50 for two late rent fees of $25 each for January and February 2014.

The landlord's evidence included the following:

- a copy of a residential tenancy agreement, signed by the tenant and the landlord on August 28, 2013, indicating the following:

    o   monthly rent of $850 due on the first of each month;
    o   electricity is not included in rent;
    o   the tenant paid the landlord a security deposit of $425;
    o   if rent is paid late, the tenant is subject to a $25 late fee;

- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on February 5, 2014, with an effective vacancy date of February 16, 2014, for failure to pay rent in the amount of $850 that was due on February 1, 2014; and

- a copy of the tenant ledger, showing outstanding rent and fees.

Analysis

I have reviewed all evidence and I accept that the tenant was served with the notice to end tenancy as declared by the landlord. I accept the evidence before me that the tenant failed to pay the rent owed within the five days granted under section 46(4) of the Act. I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. The landlord is therefore entitled to an order of possession.

As for the monetary order, based on the above-noted evidence I find that the landlord has established a claim for $1748.99. The landlord is also entitled to recovery of the $50 filing fee.

Conclusion

I grant the landlord an order of possession effective two days from service. The tenant must be served with the order of possession. 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.

The landlord is entitled to $1748.99. I order that the landlord retain the security deposit of $425 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of $1323.99. This order may be filed in the 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: April 14, 2014

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Residential Tenancy Branch