



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR OPR MNR FF

Introduction

This hearing dealt with applications by the landlord and the tenant. The landlord applied for an order of possession and a monetary order for unpaid rent. The tenant applied to cancel the notice to end tenancy for unpaid rent. Both the tenant and the landlord participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the notice to end tenancy valid, and if so is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Background and Evidence

The tenancy began on June 3, 2012. Rent in the amount of \$3800 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 \$1900. The tenant failed to pay rent from April 2013 to February 2014, and on February 11, 2014 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The landlord reduced their monetary claim to \$25,000. The tenant did not dispute any of these facts.

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 has 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 \$25,000 in unpaid rent. The landlord's application was successful; however, as the maximum monetary amount I can grant under the Act is \$25, 000, I cannot add the landlord's filing fee to that amount.

Conclusion

The tenant's application is dismissed.

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 \$25,000. I order that the landlord retain the security deposit of \$1900 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$23,100. 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 7, 2014

Residential Tenancy Branch

