



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, 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; and
4. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. 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 September 15, 2010. Following notices of rent increases that took effect on November 1, 2011 and June 1, 2013, rent of \$640.00 is currently payable in advance on the first day of each month. At the outset of the tenancy, the Landlord

collected \$312.50 as a security deposit from the Tenant. The tenancy agreement provides for a late rent fee of \$25.00. The Tenant failed to pay rent for February 2014 and on February 2, 2014 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the door. The Tenant has not made an application for dispute resolution and has not moved out of the unit. The Tenant made the following payments towards the arrears and continuing rent as follows:

- \$400.00 paid February 18, 2014
- \$200.00 paid March 6, 2014
- \$600.00 paid March 14, 2014; and
- \$270.00 paid April 4, 2014.

The Landlord issued receipts for these amounts indicating that the monies were taken for "use and occupancy only". The Landlord states that the arrears outstanding to date are \$525.00 and claims this amount plus \$25.00 for a late rent fee.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent (the "Notice") the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Section 55 of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the Notice by making an application for dispute resolution and the time for making that application has expired.

Based on the Landlord's evidence I find that the Tenant was given a valid Notice, deemed to have been received on February 5, 2014. As the Tenant has not filed an application to dispute the Notice, I find that the Landlord is entitled to an **Order of**

Possession. I find that the Landlord has established a monetary claim for **\$450.00** in unpaid rent. I base this amount on the total rent due for the months February, March and April 2014 of \$1,920, less the total amounts received between February 18 and April 4, 2014 of \$1,470.00. Given the late rent fee provided for in the tenancy agreement, I also find that the Landlord is entitled to the **\$25.00** late fee for February 2014 as claimed in the application. Finally the Landlord is entitled to recovery of the \$50.00 filing fee for a total entitlement of **\$525.00**.

Deducting the security deposit of \$312.50 plus zero interest off the entitlement leaves **\$212.50** owed by the Tenant to the Landlord.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **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.

I order that the Landlord retain the **deposit** and interest of \$312.50 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$212.50**. If necessary, 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 16, 2014

Residential Tenancy Branch

