



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC OPR OPC MNR MNSD FF

Introduction

This hearing was convened pursuant to applications by the tenant and the landlord. The tenant applied to cancel a notice to end tenancy for cause. The landlord applied for an order of possession, a monetary order and an order to retain the security deposit in partial compensation of the claim.

The landlord participated in the teleconference hearing but the tenant did not. I dismissed the tenant's application.

The landlord submitted evidence to establish that the tenant was served with the landlord's application for dispute resolution and notice of hearing by registered mail sent April 24, 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 the landlord's application on April 29, 2014, and I proceeded with the hearing of the landlord's application 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 March 1, 2014. Rent in the amount of \$1100 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 \$550. The tenant failed to pay \$550 of the rent in the month of April 2014 and on April 5, 2014 the landlord served

the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent in the month of May 2014.

The Landlord's evidence included the following:

- a copy of a residential tenancy agreement, signed by the tenant and the landlord on February 13, 2014, indicating a monthly rent of \$1100 due on the first of each month;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on April 5, 2014, with an effective vacancy date of April 15, 2014, for failure to pay rent in the amount of \$550 that was due on April 1, 2014;
- a copy of a Proof of Service of the 10 Day Notice form showing that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the notice on the rental unit door in the presence of a witness on April 5, 2014; and
- testimony from the landlord that the tenant made no payments of rent after receiving the notice to end tenancy.

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. The notice is deemed to have been received by the tenant on April 7, 2014.

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 I granted the landlord an order of possession pursuant to the notice to end tenancy for unpaid rent, it was not necessary for me to consider the notice to end tenancy for cause.

As for the monetary order, based on the above-noted evidence I find that the landlord has established a claim for \$1650 in unpaid rent. The landlord is also entitled to recovery of the \$50 filing fee.

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 \$1700. I order that the landlord retain the security deposit of \$550 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1150. 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: May 8, 2014

Residential Tenancy Branch

