



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, MNDC, MNSD, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent, late fees, return of rental incentive and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of the claim.

The landlord served the notice of hearing on the tenant on April 24, 2014 by registered mail. The landlord provided a tracking number. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover unpaid rent, late fees, rental incentive and the filing fee?

Background and Evidence

The tenancy started in September 2013 for a fixed term of one year. The monthly rent is \$875.00 due in advance on the first of each month. The landlord filed a copy of the signed tenancy agreement which contains a clause requiring the tenant to pay a late fee of \$20.00 for rent paid late. The tenant also filed a copy of the signed addendum to the agreement in which the tenant has agreed to return the rental incentive of \$150.00 for late payment of rent. The tenant paid a security deposit of \$437.50.

The landlord testified that the tenant failed to pay rent for April. On April 03, 2014, the landlord served the tenant with a notice to end tenancy for unpaid rent, by posting the notice on the tenant's door, in the presence of a witness. The tenant paid a portion of the outstanding rent on April 30, 2014 and most of rent for May 2014. The landlord issued receipts for use and occupancy only.

The tenant did not dispute the notice and also did not pay all the outstanding rent. The tenant continues to occupy the rental unit and as of the date of the hearing owes the landlord \$60.00 in unpaid rent for May, \$875.00 for rent for June, \$25.00 for late fee for June plus \$150.00 for the return of the rental incentive for a total of \$1,110.00. The landlord has also applied for an order of possession effective two days after service on the tenant.

Analysis

Based on the sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy on April 03, 2014 and did not pay outstanding rent nor did the tenant make application, pursuant to Section 46 to set aside the notice to end tenancy, and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

I find that the landlord is entitled to \$1,110.00 for unpaid rent, late fees and return of rental incentive. Since the landlord has proven his case, he is also entitled to the recovery of the filing fee of \$50.00. I order that the landlord retain the security deposit of \$437.50 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$722.50. 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 effective two days after service on the tenant and a monetary order in the amount of **\$722.50**.

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: June 11, 2014

Residential Tenancy Branch

