



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Royal LePage Northshore
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This is an application filed by the landlord for an order of possession and a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave undisputed evidence. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been properly served.

Issue(s) to be Decided

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

Background and Evidence

This tenancy began on June 1, 2012 on a 1 year fixed term tenancy ending on May 31, 2013 as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$3,850.00 payable on the 1st of each month and a security deposit of \$1,925.00 was paid on May 16, 2012.

The landlord states that the tenant was served with a 10 day notice to end tenancy issued for unpaid rent dated April 8, 2014 in person. The notice states that the tenant failed to pay rent of \$35,921.00 that was due on April 2, 2014. The notice also states and effective end of tenancy date of April 19, 2014. The tenant confirms receiving the notice from the landlord.

The landlord stated that the tenant made sporadic rent payments, but that as of the date of the hearing, the tenant is in arrears for approximately \$35,921.00. The tenant

confirmed the arrears stating that he was having financial difficulties and could not pay the rent arrears to the landlord.

Analysis

I accept the undisputed evidence of both parties and find that the tenant has been properly served with the 10 day notice to end tenancy issued for unpaid rent. The tenant confirmed in his direct testimony that rent was in arrears as stated by the landlord. The landlord provided a print out of the tenant's rental payment history in support of the claim. The landlord is granted an order of possession. The tenants must be served with the order. Should the tenants 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.

As for the monetary claim, I note that the landlord's claim exceeds the statutory limit and that this was acknowledged by both parties. As such, the landlord has established a monetary claim for unpaid rent of \$25,000.00 based upon the tenant's direct testimony confirming the rent arrears sought by the landlord. The landlord is also entitled to recovery of the \$100.00 filing fee. I order that the landlord retain the \$1,925.00 security deposit in partial satisfaction of the claim and I grant an order under section 67 for the balance due of \$23,175.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession.
The landlord is granted a monetary order for \$23,175.00.
The landlord may retain the security deposit.

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 24, 2014

Residential Tenancy Branch

