



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC LTD 0955802
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

On April 7, 2014, the landlord's application for dispute was dismissed with leave to reapply.

On April 16, 2014, the landlord made an application for review consideration, which was granted on the basis that they were unable to attend at the original hearing because of circumstances that could not be anticipated and were beyond their control. The arbitrator ordered the parties to participate in a new hearing, and the original decision was suspended. The arbitrator at the new hearing may confirm, vary or set aside the original decision.

This new hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, for a monetary order for unpaid rent, and to keep all or part of the security deposit.

Preliminary matter

The landlord's agent attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord's agent testified that the Application for Dispute Resolution and Notice of review hearing were served personally on the tenant on April 29, 2014. I find that the tenant has been duly served in accordance with the Act.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to keep all or part of the security deposit?

Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenant was served with a notice to end tenancy for non-payment of rent on November 1, 2013, by personal service. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The landlord's agent testified the monthly rent is \$750.00. The landlord stated the tenant paid a security deposit of \$375.00.

The landlord's agent stated the tenant did not pay the outstanding rent and because of the delay in the process, the tenant has failed to pay any further rent.

The landlord's agent stated the tenant owes \$375.00 for December 2013, \$375.00 for January 2014, and has not paid any rent for February, March, April, May and June 2014 and the tenant's current balance of unpaid rent is \$4,500.00

Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

The tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlord is entitled to an order of possession effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord has established a total monetary claim of **\$4,550.00** comprised of unpaid rent and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the security deposit of \$375.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$4,175.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The original decision made on April 7, 2014, is set aside.

The tenant failed to pay rent and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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 23, 2014

