



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Intra-Pacific Buildings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR MNR MNSD FF

Introduction

This hearing convened pursuant to an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

The landlord participated in the teleconference hearing, but the tenant did not call into the hearing. The landlord stated that they served the tenant with the application for dispute resolution and notice of hearing by registered mail that the tenant received on May 27, 2014. I accepted the landlord's testimony regarding service, and I proceeded with the hearing in the absence of the tenant.

The landlord stated that the tenant had paid all outstanding rent. I therefore did not consider the landlord's claim for unpaid rent.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began on August 20, 2004. Rent in the amount of \$795 is payable in advance on the first day of each month. The tenant failed to pay \$395 of the rent in the month of May 2014 and on May 6, 2014 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant paid the landlord \$395 on May 28, 2014, and paid his rent in full for June and July 2014. The landlord stated that each time the tenant made these payments, they issued a receipt for use and occupancy only.

The Landlord's evidence included the following:

- a copy of a residential tenancy agreement, signed by the tenant and the landlord on August 11, 2004, indicating a monthly rent of \$795 due on the first of each month;

- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on May 6, 2014, with an effective vacancy date of May 16, 2014, for failure to pay rent in the amount of \$395 that was due on May 1, 2014;
- testimony that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the notice on the rental unit door on May 6, 2014; and
- a copy of the Landlord's Application for Dispute Resolution, filed May 23, 2014.

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 May 9, 2014.

I accept the evidence before me that the tenant 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 the tenant has paid full rent for July 2014, I grant the order of possession effective July 31, 2014.

As their application was successful, the landlord is also entitled to recovery of the \$50 filing fee for the cost of their application.

Conclusion

I grant the landlord an order of possession effective July 31, 2014. 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.

I further grant the landlord a monetary order for \$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: July 15, 2014

Residential Tenancy Branch

