



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC Housing Management Commission
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application.

An agent for the landlord attended and gave affirmed testimony, however, despite being served with the Landlord's Application for Dispute Resolution, notice of hearing documents and evidentiary material by registered mail on June 6, 2014, no one for the tenant attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the landlord's agent. The landlord's agent testified that the tenant was served on that date and in that manner and has provided evidentiary material from Canada Post and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

All evidence and testimony provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on February 17, 2007 and the tenant still resides in the rental unit. Rent is subsidized and the tenant's share is \$688.00 per month payable in advance on the 1st day of each month. No security deposit or pet damage deposit have been collected, and the landlord has provided a copy of the tenancy agreement.

The landlord's agent further testified that the tenant has fallen into arrears of rent often throughout the tenancy, and the landlord has consistently worked with the tenant, but the tenant has stopped communicating with the landlord.

The landlord served the tenant with a 10 Day Notice to End Tenancy on March 10, 2014 by sending it by regular mail to the tenant. A copy of the notice has been provided and it is dated March 10, 2014 and contains an expected date of vacancy of March 25, 2014. The notice states that the tenant failed to pay rent in the amount of \$1,465.00 that was due on March 1, 2014. The landlord's agent testified that the tenant paid \$1,000.00 on March 13, 2014, leaving a balance outstanding of \$465.00.

The landlord again served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on April 8, 2014 and a copy has been provided. The notice is dated April 8, 2014 and contains an expected date of vacancy of April 23, 2014 for unpaid rent in the amount of \$1,253.00 that was due on April 1, 2014. The landlord's agent testified that the parties had been before an Arbitrator who ordered a monetary amount in favour of the landlord and \$100.00 of it has still not been paid, and this notice to end tenancy includes that \$100.00.

The landlord again served the tenant with another 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on May 9, 2014 for unpaid rent in the amount of \$1,941.00 that was due on May 1, 2014 and has provided a copy. The notice contains an expected date of vacancy of May 24, 2014 and the landlord's agent testified that the amount includes the \$100.00 monetary amount previously awarded.

The tenant has not paid any rent since March 13, 2014 and has not served the landlord with an application for dispute resolution disputing any of the notices, and the landlord requests an Order of Possession and a monetary order in the amount of \$3,217.00 which includes rent up to the end of July, 2014 and recovery of the \$50.00 filing fee.

Analysis

The landlord's agent testified that the tenant was served with the notice to end tenancy on March 10, 2014 by regular mail. The *Residential Tenancy Act* states that documents served in that manner are deemed to have been served 5 days later. I find that the tenant is deemed to have received the notice on March 15, 2014. The *Act* also states that a tenant has 5 days to pay the rent in full or dispute the notice, and if the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy. In this case, the landlord's agent testified that the landlord has not been served with an application by the tenant to dispute the March 10, 2014 notice, and did not pay the rent in full by that date. Although I do not have the evidence of how or when the other notices were served, I am satisfied that the tenant did not pay the rent in full within 5 days of March 15, 2014, leaving a balance outstanding, and the tenant is conclusively presumed to have accepted the end of the tenancy. I find that the landlord is entitled under the *Residential Tenancy Act* to an Order of Possession.

The tenant did not move out of the rental unit and the landlord has provided 2 more notices to end the tenancy, which I have reviewed. The first notice shows that the tenant owed \$1,465.00 as at March 1, 2014. The tenant paid \$1,000.00 on March 13, 2014, leaving a balance of \$465.00. I accept the testimony of the landlord's agent that the monetary amount in the notices issued after March 13, 2014 include a \$100.00 amount outstanding from a previous arbitration, and the landlord already has a monetary order for that. However, I do not have any testimony or evidence as to whether or not the amount due on the notice dated March 10, 2014 includes the \$100.00. Since the other notices do include that \$100.00, I find it reasonable to find that the first notice also includes it. I also accept the testimony that the tenant has not paid any rent since March 13, 2014 and I find that rental arrears to the end of July, 2014 amount to \$3,117.00, and I grant a monetary order for that amount.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$3,167.00.

This order is final and binding and may be enforced.

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 24, 2014

Residential Tenancy Branch

