



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The Tenant applied for:

1. An Order cancelling a Notice to End Tenancy – Section 46;
2. An Order to recover the filing fee for this application - Section 72.

The Landlord applied for:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. A Monetary Order for compensation – Section 67; and
4. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing in person on July 15, 2014 in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. As the Tenant did not appear to pursue its claim I dismiss the Tenant’s application. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on January 15, 2015. Rent of \$525.00 is payable in advance on the first or second day of each month. At the outset of the tenancy, the Landlord collected \$250.00 as a security deposit from the Tenant. The Tenant failed to pay rent for June 2013 and on June 19, 2013 the Landlord personally served the Tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice"). The Tenant's application to dispute this notice has been dismissed. The Tenant has not paid the rent and although it appears that the Tenant moved out of the unit on August 17, 2014, no keys were returned and the Tenants were heard in the unit yesterday. The Landlord claims unpaid rent for June, July and August, 2014 in the amount of \$1,575.00.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent (the "Notice") the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. Section 55 of the Act provides that where a tenant's application to dispute a notice to end tenancy has been dismissed the landlord may request an order of possession and it must be granted.

Based on the Landlord's evidence I find that the Tenant was given a valid Notice and has not moved out of the unit. The Tenant has also not paid the outstanding rent.

Given these facts, I find that the Landlord is entitled to an **Order of Possession**. I also find that the Landlord has established a monetary claim for **\$1,575.00** in unpaid rent.

The Landlord is entitled to recovery of the **\$50.00** filing fee for a total monetary amount of **\$1,625.00**. Setting the security deposit of \$250.00 plus zero interest off the entitlement leaves **\$1,375.00** owed by the Tenant to the Landlord.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **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 order that the Landlord retain the **deposit** and interest of \$250.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,375.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: August 19, 2014

Residential Tenancy Branch

