



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LLA Investments Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, OPR, MNR, MNSD, FF

Introduction

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 47; and
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 or utilities - Section 67;
3. An Order to retain the security deposit – Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord and tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is either of the notices to end tenancy valid?

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to the monetary amounts claimed?

Are the Parties entitled to recovery of their respective filing fees?

Background and Evidence

The following are undisputed facts: The tenancy started on December 1, 2010. Rent of \$735.00 is payable monthly on the first day of each month. At the outset of the tenancy the Landlord collected \$367.50 as a security deposit. The Tenant did not pay rent for July 2014 and on July 23, 2014 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent. The Landlord had earlier served the Tenant with a one month notice to end tenancy for cause. The Tenant did dispute the notice to end tenancy and not pay the rent because she was waiting for the outcome of the hearing on her application to dispute the notice to end tenancy for cause.

The Landlord claims an order of possession and unpaid rent for July and August 2014.

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. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Section 55 of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the Notice by making an application for dispute resolution and the time for making that application has expired.

Based on the undisputed evidence I find that the Tenant did not pay the rent as required under the tenancy agreement and was given a valid Notice. The Tenant has not filed an application to dispute the Notice and has 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 **\$1,470.00** in unpaid rent. I base this amount on the undisputed evidence provided at the hearing and as indicated in the rental agreement. The Landlord is entitled to recovery of the \$50.00 filing fee for a total monetary amount of **\$1,520.00**. Setting the security deposit of \$367.50 plus zero interest off the entitlement leaves **\$1,152.50** owed by the Tenant to the Landlord. As the tenancy has ended pursuant to a valid Notice, the dispute over the notice to end tenancy for cause is no longer necessary and I dismiss the Tenant's application.

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 \$367.50 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,152.50**. 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 12, 2014

Residential Tenancy Branch

