



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW DECISION

Dispute Codes: OPR, MNR

Introduction

In response to the landlord's direct request application, a decision was issued by date of May 22, 2014. Pursuant to the decision an order of possession for unpaid rent and a monetary order as compensation for unpaid rent were issued in favour of the landlord. Subsequently, the tenant filed an application for review consideration, and by review consideration decision dated June 06, 2014, the decision and orders dated May 22, 2014 were "suspended until such time as the new hearing has been completed and a decision is given to the parties." The review consideration decision also provides that "the tenant must serve the landlord within 3 days of receiving this decision with a copy of this decision and the Notice of Hearing documents."

The landlord attended this review hearing and confirmed that the tenant had served him with a copy of the review consideration decision and the Notice of Hearing documents. However, the tenant himself did not appear at this review hearing.

Issue(s) to be Decided

Whether the landlord is entitled to an order of possession for unpaid rent and / or a monetary order as compensation for unpaid rent.

Background and Evidence

Pursuant to a written tenancy agreement the tenancy began on February 01, 2009. Monthly rent is due and payable in advance on the 31st day of each month. Effective May 01, 2014 the monthly rent was increased from \$1,028.00 to \$1,051.00.

A security deposit of \$450.00 and a pet damage deposit of \$450.00 were collected near the start of tenancy.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated May 02, 2014. The notice was served by way of posting on the unit door on that same date. A copy of the notice was submitted in evidence. The total amount of rent shown on the notice as

unpaid when due is \$1,122.00 [\$71.00 for April and \$1,051.00 for May]. The date shown on the notice by when the tenant must vacate the unit is May 12, 2014. Subsequently, the tenant has made no further payment toward rent and he continues to have possession of the unit.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated May 02, 2014. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant 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. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

As for compensation, I find that the landlord has established a claim of **\$3,749.50**:

\$71.00: *unpaid rent April*
\$1,051.00: *unpaid rent May*
\$1,051.00: *unpaid rent June*
\$1,051.00: *unpaid rent July*
\$525.50: *unpaid rent for the period August 1 to 15*

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, in part:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from the above, I order that the landlord retain the tenant's security deposit and pet damage deposit in the combined total amount of \$900.00 (\$450.00 + \$450.00), and I grant the landlord a **monetary order** for the balance owed of **\$2,849.50** (\$3,749.50 - \$900.00).

Section 82 of the Act speaks to **Review of director's decision or order**, and provides in part:

82(2) The director may conduct a review

(c) by holding a new hearing.

(3) Following the review, the director may confirm, vary or set aside the original decision or order.

Pursuant to all of the foregoing, the original decision and orders dated May 22, 2014 are hereby set aside.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$2,849.50**. This order may be served on the tenant, 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 06, 2014

Residential Tenancy Branch

