



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Hollyburn Properties Limited
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF, OPB

Introduction

This hearing dealt with 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. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Background and Evidence

The tenancy began on or about February 2014. Rent in the amount of \$1150.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$575.00. The tenant failed to pay rent in the month(s) of July and on July 9, 2014 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of August and September.

The landlord stated gave the following testimony:

The landlord stated that they wish to be granted the loss of revenue for the month of October. The landlord stated that they were unable to proceed with any attempts to rent

due to this hearing and the timing of it. The landlords provided documentation that the tenancy was to be for a fixed term of one year. The landlords are also seeking the late fees of \$25.00 x 3 months and the locker fee of \$25.00 x 3 months and bank charge of \$30.00.

The tenant gave the following testimony:

The tenant stated that she agreed with all claims by the landlord except for the loss of revenue for October. The tenant stated that she had offered to put a lien on her art and wine collection but was refused by the landlord. The tenant stated she had grave concerns about her items being moved and left in the laneway of the property. The tenant feels that the landlords are going to renovate the unit and that they shouldn't be entitled to the loss of revenue for October.

Analysis

I accept the landlord's testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession. 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.

As for the monetary order, I find that the landlord has established a claim for all items sought. I am satisfied that the parties had agreed to a fixed term agreement and that the landlord was unable to re-rent the unit pending this hearing. The landlord is also entitled to recovery of the \$50.00 filing fee.

In summary, the landlord has been successful in the following claims:

Unpaid Rent for July - Sept	\$3450.00
Locker Fee July – Sept	\$ 75.00
Late Fee July - Sept	\$75.00
Bank Fee	\$30.00
Loss of Revenue October	\$ 1150.00
Filing Fee	\$ 50.00
Total:	\$4830.00

I find that the landlord is entitled to \$4830.00. I order that the landlord retain the \$575.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$4255.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary order for \$4255.00. The landlord may retain the security deposit.

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: September 24, 2014

Residential Tenancy Branch

