



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

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

1. An Order of Possession - Section 55; and
2. A Monetary Order for unpaid rent - Section 67.

In the Review Consideration Decision dated September 3, 2014 the Tenant was granted a review Hearing and ordered to serve the Landlord with the notice of today’s hearing. This did not happen. The Tenant did not appear. The Landlord appeared as a result of having contacted the Residential Tenancy Branch (the “RTB”) and being informed of the date and time of today’s hearing by the RTB. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

The Landlord submitted an evidence document containing a request to increase the monetary amount being claimed. The Landlord indicates that the additional amount is made up of additional unpaid rent.

Section 64 of the Act provides that an amendment to an application may be made without consent, subject to the Rules of Procedure (the “Rules”). Section 2.11 of the Rules provides that an application may be amended prior to the date of the hearing by submitting an amended copy of the application to the Residential Tenancy Branch and

by serving this amended copy of the application to the respondent. As the Landlord did not amend the application as required under the Rules, I find that the Landlord may not amend the application. The Landlord remains at liberty to make another application in relation to unpaid rent that is not included with this application.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amount claimed?

Background and Evidence

The tenancy began on June 19, 2014. Rent of \$1,100.00 is payable in advance on the first day of each month. The Tenant owed arrears and failed to pay rent for July 2014 and on July 11, 2014 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the door. The Tenant has not made an application for dispute resolution, has not paid the arrears and has not moved out of the unit. The Landlord claims \$1,330.00.

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. 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 Landlord's evidence I find that the Tenant was given an effective Notice, 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 **\$1,330.00** in unpaid rent.

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 grant the Landlord an order under Section 67 of the Act for **\$1,330.00**. 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: October 29, 2014

Residential Tenancy Branch

