



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Elizabeth Manor
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied for an order of possession for the rental unit due to unpaid rent, a monetary order for unpaid rent and money owed or compensation for damage or loss, for authority to retain the tenant's security deposit, and for recovery of the filing fee paid for this application.

The landlord's agents were first in attendance in the hearing, and provided evidence that they served the tenant notice of the hearing and their application via registered mail. The tenant called into the telephone conference call hearing 7 minutes into the hearing, after I had heard all the evidence from the landlord necessary to make a decision on their application; nonetheless, the tenant did provide testimony at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, monetary compensation, and to recover the filing fee?

Background and Evidence

The landlord gave evidence that this tenancy began on March 1, 2013, monthly rent is currently \$894, and a security deposit of \$437.50 was paid by the tenant at the beginning of the tenancy.

The landlord gave evidence that on September 3, 2014, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by attaching it to the tenant's door, listing unpaid rent of \$894 as of September 1, 2014. The effective vacancy date listed on the Notice was September 15, 2014.

Section 90 of the Act states that documents served by posting on the door are deemed delivered three days later. Thus the tenant was deemed to have received the Notice on September 6, 2014, and the effective move out date is automatically changed to September 16, 2014, pursuant to section 53 of the Act.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The landlord stated that the tenant made a payment of \$800 on October 23, 2014, and as of the date of the hearing, the tenant owed \$1882 in unpaid rent. The landlord submitted further that the tenant was issued a receipt stating that the acceptance was for use and occupancy only.

The landlord submitted further that they are also requesting a late payment fee of \$25 for September, October, and November 2014, each, and along with the filing fee of \$50, their total monetary claim is \$2007.

I have no evidence before me that the tenant applied to dispute the Notice.

The tenant acknowledged that he owed rent, but that he seeking a loan to bring his rent deficiency current, as he now had custody of his minor child and wanted to stay in the rental unit.

Analysis

Based on the oral and written evidence, I find the landlord submitted sufficient evidence to prove that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent, did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice within five days of service and 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.

I therefore find that the landlord is entitled to an order of possession for the rental unit effective two days after service of the order upon the tenant.

I also find that the landlord is entitled to a monetary award of \$2007, comprised of a rent deficiency of \$1882 through November, 2014, late payment fees of \$75, and the \$50 filing fee paid by the landlord for this application.

Conclusion

The landlord's application has been granted.

I grant the landlord a final, legally binding order of possession for the rental unit, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit

pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

The landlord has been granted a monetary award in the amount of \$2007.

At the landlord's request, I allow the landlord to retain the tenant's security deposit of \$437.50 in partial satisfaction of their monetary award.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due, in the amount of \$1569.50, which is enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

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: November 4, 2014

Residential Tenancy Branch

