



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MT, 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”).

The Tenant applied for:

1. An Order cancelling a notice to end tenancy - Section 46; and
2. More time to make an application to cancel a notice to end tenancy – Section 66.

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 all or part of 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?

Background and Evidence

The following are agreed facts: The tenancy began on April 1, 2014. Rent of \$1,225.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected \$612.50 as a security deposit and \$612.50 as a pet deposit from the Tenant. The Tenant owed rental arrears of \$1,200.00 for October 2014 and failed to pay rent for November 2014. On November 2, 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 to dispute the Notice, has not paid the arrears and has not moved out of the unit. The Landlord claims \$\$2,425.00.

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 agreed facts I find that the Tenant was given a valid Notice, deemed to have been received on November 5, 2014. 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 has substantiated an entitlement to an **Order of Possession**. I also find that the Landlord has substantiated a monetary entitlement to **\$2,425.00**. The Landlord is entitled to recovery of the **\$50.00** filing fee for a total monetary amount of **\$2,475.00**. Setting the combined security and pet deposit of \$1,225.00 plus zero interest off the entitlement leaves **\$1,250.00** owed by the Tenant to the Landlord.

As the tenancy has ended pursuant to the non-payment of rent, it is not necessary to determine the dispute over the notice to end tenancy for cause 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 \$1,225.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,250.00**. 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: November 27, 2014

Residential Tenancy Branch

