



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0706472 B.C. LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNR OPR MNSD FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

SERVICE:

The tenant did not attend. The landlord gave sworn evidence that the Notice to end Tenancy dated September 13, 2014 was served by posting it on the door and the Application for Dispute Resolution by registered mail. It was verified online that the registered mail was available for pickup by the tenant from September 30, 2014 but after several further notices, it was unclaimed and returned to the landlord on October 17, 2014. I find that the tenant is deemed to be served with the Application/Notice of Hearing according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated September 13, 2014 for unpaid rent. Is the landlord now entitled to an Order of Possession and to a Monetary Order for rental arrears and filing fee?

Background and Evidence:

Only the landlord attended the hearing and was given opportunity to be heard, to present evidence and to make submissions. The landlord gave sworn testimony that the tenancy commenced on January 1, 2013, a security deposit of \$550 and a pet damage deposit of \$500 were paid and rent is currently \$1100 a month. The landlord is claiming the rental arrears of \$400 for unpaid rent in September 2014. He said he receives payment from the Ministry for part of the rent and the tenants pay an additional \$400 a month. He said the tenants had paid the additional payment for October late

and he had issued a receipt for “use and occupancy only” as he was not reinstating the tenancy. The tenants submitted no documents in dispute.

The landlord requests a monetary order for \$400 in rent arrears, \$50 for two NSF fees and \$300 in damages. He said the tenants had broken a glass door and another door but he provided no evidence such as invoices or other evidence to show the tenants had done this damage.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

I find that the landlord is entitled to an Order of Possession. There is outstanding rent. The Tenant has not made application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the Residential Tenancy Act provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice which was September 24, 2014. An Order of Possession is issued effective two days from service.

Monetary Order

I find that there are rental arrears in the amount of \$400 for September 2014 and an outstanding \$50 charge for two cheques that were returned NSF. The landlord has requested to keep all or part of the security deposit to offset this amount.

I dismiss the application of the landlord to recover damages as I find he supplied insufficient information in support. I give the landlord leave to reapply for damages or other amounts owed to him.

Conclusion:

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order as calculated below. I find the landlord is entitled to retain a portion of the security deposit to offset the rental amount owing and to recover filing fees paid for this application. The balance of the security deposit remaining in trust is \$50.00. I give the landlord leave to reapply for damages or other amounts owed to him.

Calculation of Monetary Award:

Rent arrears September 2014	400.00
Fees for NSF cheques	50.00

Filing fee	50.00
Less security deposit (no interest 2013-14)	-550.00
Balance of security deposit left in trust	-50.00

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 12, 2014

Residential Tenancy Branch

