



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, CNR, MNR, FF

Introduction

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, and to recover the fee for filing an Application for Dispute Resolution.

The Tenant filed an Application for Dispute Resolution, in which the Tenant applied to cancel a Notice to End Tenancy for Unpaid Rent and to recover the fee for filing an Application for Dispute Resolution.

The male Agent for the Landlord stated that on November 14, 2014 the Application for Dispute Resolution and the Notice of Hearing were sent to the Tenant at the rental unit, via registered mail. He cited a Canada Post tracking number that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant did not appear at the hearing.

The male Agent for the Landlord stated that the Landlord is aware that the Tenant also filed an Application for Dispute Resolution.

On November 25, 2014 the Landlord submitted documents to the Residential Tenancy Branch, which the Landlord wishes to rely upon as evidence. The male Agent for the Landlord stated that these documents were placed in the Tenant's mail box on November 23, 2014. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 88 of the *Act* and they were accepted as evidence for these proceedings.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession or should the Notice to End Tenancy for Unpaid rent be set aside?

Is the Landlord entitled to a monetary Order for unpaid rent?

Background and Evidence

The male Agent for the Landlord stated that this tenancy began on November 01, 2012 and that the Tenant was required to pay monthly rent of \$380.00, in advance, by the last day of each month.

The male Agent for the Landlord stated that the Tenant did not pay any rent for November or December of 2014. He stated that he is not aware of any emergency repairs completed by the Tenant.

The male Agent for the Landlord stated that on November 06, 2014 a Ten Day Notice to End Tenancy for Unpaid Rent, which had a declared effective date of November 16, 2014, was personally served to the Tenant by the Landlord, in his presence. The Notice has the Landlord's name printed at the bottom of page one, but it is not signed by the Landlord.

Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$380.00, in advance, by the last day of each month. Section 26(1) of the *Act* requires tenants to pay rent to their landlord when it is due.

On the basis of the undisputed evidence, I find that the Tenant has not paid rent for November or December of 2014. As the Tenant is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$760.00 in outstanding rent to the Landlord.

On the basis of the undisputed evidence, I find that on November 06, 2014 the Tenant was served with a Ten Day Notice to End Tenancy, served pursuant to section 46(1) of the *Act*. Section 46(2) of the *Act* stipulates that a notice to end tenancy served under this section must comply with section 52 of the *Act*. Section 52(a) of the *Act* stipulates that to be effective a notice to end tenancy must be signed and dated by the landlord or the tenant giving the notice.

In the circumstances before me I find that the Landlord did not sign the Ten Day Notice to End Tenancy that was served on November 06, 2014. I therefore find that the Notice was not effective, as the Notice did not comply with section 52(a) of the *Act*.

As the Notice to End Tenancy was not effective, I dismiss the Landlord's application for an Order of Possession. The Landlord retains the right to serve another Ten Day Notice to End Tenancy if the rent remains unpaid.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution. As the Tenant did not attend the hearing in support of her Application for Dispute Resolution, I dismiss her application to recover the fee for filing an Application for Dispute Resolution.

Conclusion

The Landlord has established a monetary claim, in the amount of \$810.00, which is comprised of \$760.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for \$810.00. In the event the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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: December 11, 2014

Residential Tenancy Branch

