



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This 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;
2. A Monetary Order for unpaid rent - Section 67;
3. A Monetary Order for compensation – Section 67; and
4. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. 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.

Issue(s) to be Decided

Is the notice 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 tenancy began on September 1, 2013. Rent of \$1,650.00 is payable in advance on the first day of each month. The Tenant failed to pay rent for November 2014 and on November 6, 2014 the Landlord served the Tenant in person with a 10 day notice to end

tenancy for unpaid rent (the "Notice"). The Landlord confirmed that the Tenant has not satisfied a momentary order issued under a Decision dated July 4, 2014 for rents owed to and including July 2014 and that a portion of this ordered amount was included in the Notice. The Landlord confirmed at the hearing that the Tenant paid \$1,650.00 on October 4, 2014. Since the issuance of the Notice the Tenant has not made an application for dispute resolution to dispute the Notice, has not paid the November 2014 arrears or December 2014 rent and has not moved out of the unit. The Landlord claims \$3,300.00. Although the Landlord's application included a claim for unpaid utilities no evidence of a demand letter for the payment of the utilities was submitted.

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 a valid Notice in relation to unpaid rent for November 2014. I find that the amount paid in October 2014 was paid as rent and not as payment towards the outstanding monetary order. The Tenant has not filed an application to dispute the Notice, has not paid the outstanding rent and has not moved out of the unit. 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 **\$3,300.00** in unpaid rent. The Landlord is entitled to recovery of the **\$50.00** filing fee for a total monetary amount of **\$3,350.00**. As the Landlord did not

provide evidence of a demand letter for the utilities, I dismiss this claim with leave to reapply.

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 **\$3,350.00**. 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: December 17, 2014

Residential Tenancy Branch

