



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of all or part of the security deposit / and recovery of the filing fee. The landlord's agent (the "landlord") attended and gave affirmed testimony. The tenant did not appear.

The landlord testified that the application for dispute resolution and the notice of hearing (the "hearing package") were served on the tenant by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail. The Canada Post website informs that the item was "accepted at the Post Office" on November 28, 2014, and that by December 22, 2014 it was still "unclaimed by recipient."

As the hearing package was sent by way of registered mail on November 28, 2014, pursuant to section 90 of the Act which addresses **When documents are considered to have been received**, I find that the hearing package is deemed to have been received 5 days later on December 03, 2014.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the tenancy began on September 01, 2013. Monthly rent of \$925.00 and a \$25.00 monthly fee for landscaping are both due and payable in advance on the first day of each month. A security deposit of \$462.50 was collected.

Arising from rent which remained unpaid when due on October 01, 2014, the landlord issued a 10 day notice to end tenancy for unpaid rent dated October 21, 2014. The notice was served by way of posting to the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is November 03, 2014. Subsequently, the tenant has made no further payment toward rent and she continues to reside in the unit.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, forms and more can be accessed via the website: www.gov.bc.ca/landlordtenant

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 10 day notice to end tenancy dated October 21, 2014. The tenant did not pay the outstanding rent within 5 days of receiving the notice, and did not apply to dispute the notice. The tenant 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. Accordingly, I find that the landlord has established entitlement to an **order of possession**.

As to compensation, I find that the landlord has established a claim of **\$4,800.00**:

- \$925.00: *unpaid rent for August*
- \$25.00: *landscaping fee for August*
- \$925.00: *unpaid rent for September*
- \$25.00: *landscaping fee for September*
- \$925.00: *unpaid rent for October*
- \$25.00: *landscaping fee October*
- \$925.00: *unpaid rent for November*
- \$25.00: *landscaping fee November*
- \$925.00: *unpaid rent for December*
- \$25.00: *landscaping fee for December*

- \$50.00: *filing fee*

I order that the landlord retain the security deposit of **\$462.50**, and I grant the landlord a **monetary order** for the balance owed of **\$4,337.50** (\$4,800.00 - \$462.50).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant. 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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$4,337.50**. This order may be served on the tenant, 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 23, 2014

Residential Tenancy Branch

