



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNR, FF

Introduction

This is an application filed by the landlord for an order of possession and a monetary order for unpaid rent and recovery of the filing fee.

The landlord attended the hearing by conference call and gave undisputed testimony. The tenant did not attend or submit any documentary evidence. The landlord states that the tenant was served with the notice of hearing package and the submitted documentary evidence by Canada Post Registered Mail on December 27, 2014 and has submitted in her direct testimony the Customer Receipt Tracking number. The landlord clarified that as of January 1st or 2nd when she attended the rental unit the tenant was still occupying the rental. The landlord states that an online search shows that the package was received by Canada Post for processing on December 27, 2014 and that two attempted services were made where Canada Post left notice to retrieve the packages. As of the date of the hearing, the tenant did not pick up the package and the package is being returned to the landlord. I find that the tenant has been properly served with the notice of hearing package and the submitted documentary evidence and is deemed as being served as per the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?
Is the landlord entitled to a monetary order?

Background and Evidence

This tenancy began on July 15, 2014 on a fixed term tenancy ending on July 31, 2015 as shown by the submitted copy of the signed tenancy agreement dated July 5, 2014. The monthly rent is \$650.00 payable on the 1st of each month and a security deposit of \$325.00 and a pet damage deposit were paid on July 11, 2014.

The landlord states that a 1 month notice to end tenancy issued for cause dated November 25, 2014 was served by posting it to the rental unit door on November 25, 2014. The notice displays an effective end of tenancy date of December 30, 2014. The stated reason for cause is "Residential Tenancy Act only: security or pet damage deposit was not paid within 30 days as required by the tenancy agreement." The landlord clarified that the pet damage deposit was paid on July 11, 2014, but that the tenant later stated that he would not have a pet and that both parties agreed to apply the \$325.00 amount to the rent. The landlord states that later during the tenancy, it was discovered that the tenant did have a pet and a written warning dated November 7, 2014 demanding the removal of the pet by November 9, 2014 or the immediate payment of a \$325.00 pet damage deposit. The landlord states that the tenant failed to pay the pet deposit or remove the pet.

The landlord states that a 10 day notice to end tenancy issued for unpaid rent dated December 6, 2014 was served upon the tenant on December 6, 2014 by placing a copy in the tenant's mailbox and posting to the rental unit door on December 6, 2014. The landlord's spouse, C.R. attended the hearing as a witness to confirm service of the 10 day notice dated December 6, 2014 was placed in the mailbox and posted to the rental unit door. The notice states that rent of "\$975.00 + pet deposit" was due on December 1, 2014 which was not paid. The notice also displays an effective end of tenancy date of December 16, 2014. The landlord clarified that the demand for rent of \$975.00 on the notice consists \$650.00 in rent for December and the \$325.00 pet deposit. The landlord states since the December 6, 2014 notice was served that no rent or the pet damage has been paid and the tenant occupied the rental unit until January 2, 2015. The landlord states that she is unsure if the tenant has abandoned the property as there are photographs taken of the rental unit on January 1, 2014 displaying the condition of the rental unit. The landlord also states that the tenant has not contacted the landlord nor has the landlord been able to communicate with the tenant.

The landlord seeks an order of possession and a monetary order for \$1,300.00 which consists of unpaid rent of \$650.00 for December and \$650.00 for January. The landlord also seeks recovery of the \$50.00 filing fee.

Analysis

I accept the undisputed evidence of the landlord and find that the landlord has established grounds for an order of possession. I find that the 1 month notice to end tenancy issued for cause was properly served upon the tenant by posting it to the rental unit door on November 25, 2014. The tenant did not file an application to dispute the

notice and is conclusively presumed to have accepted that the tenancy was at an end. The tenant is deemed to have failed to pay a pet damage deposit after the landlord learned that a pet was present and that the tenant failed to remove the pet or pay the required pet deposit of \$325.00. I also find that the landlord has properly served the tenant with a 10 day notice to end tenancy issued for unpaid rent dated December 6, 2014 by posting it to the rental unit door on the same date. The tenant failed to pay the rent owed nor did the tenant file an application for dispute resolution to dispute the notice. The landlord is granted an order of possession on both notices for each of the reasons provided. The order must be served upon 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.

As for the monetary claim, I find based upon the undisputed evidence of the landlord that the tenant failed to pay rent of \$650.00 for December and \$650.00 for January when it was due. The landlord has established a monetary claim for \$1,300.00. The landlord is also entitled to recovery of the \$50.00 filing fee. Although the landlord did not apply to retain the \$325.00 security deposit, I order that the landlord retain the \$325.00 security deposit in partial satisfaction of the claim as it is currently being held in trust by the landlord. The landlord is granted a monetary order under section 67 for the balance due of \$1,025.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession.

The landlord is granted a monetary order for \$1,025.00.

The landlord may retain the \$325.00 security deposit.

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: January 20, 2015

Residential Tenancy Branch

