



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cyclone Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This matter proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the “Act”), and deals with an Application for Dispute Resolution by the Landlord for:

1. An Order of Possession – Section 55; and
2. A Monetary Order for unpaid rent – Section 67.

Given the Landlord's signed proof of service, I find that the Landlord served the Tenant with the Notice of Direct Request Proceeding by registered mail on December 16, 2014 in accordance with the Act.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

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

Background and Evidence

In the Application made December 15, 2014 the Landlord claims unpaid rent of \$1,700.00 and provides the following evidentiary material:

- A copy of the Proof of Service of the Notice of Direct Proceeding;
- A copy of a residential tenancy agreement signed by the Parties indicating a tenancy start date of October 6, 2014 and a monthly rent of \$850.00.00 due on the first day of the month;

- Details of the monetary amount being claimed indicating a rental amount owed from July 2014 and \$1,700.00 owed for December 2014. No other months of arrears were noted;
- A copy of a 10 day notice to end tenancy for unpaid rent (the “Notice”) issued on December 2, 2014 with a stated effective vacancy date of December 12, 2014, automatically corrected to December 15, 2014, for \$1,700.00 in unpaid rent due December 1, 2014; and
- A proof of service of the Notice showing that the Landlord served the Notice to the Tenant on December 2, 2014 by posting the Notice on the door.

Analysis

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. Section 46 of the Act provides that a tenant may, within 5 days after receiving a notice to end tenancy for unpaid rent, pay the overdue rent, in which case the notice has no effect, or dispute the notice by making an application for dispute resolution. If a tenant does not pay the rent or make an application to dispute the notice, the tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the unit by the effective date of the notice. Based on the submissions of the Landlord, I find that the Notice was deemed received by the Tenant on December 5, 2014 and that no application to dispute the Notice was made. I find therefore that the Landlord is entitled to an Order of Possession.

As the Landlord has not provided any evidence that any amount of rent was owed prior to December 2014 other than an amount from July 2014, and I note that the tenancy did not start on this date, and as the rent for December only amounts to \$850.00 I find that the Landlord has only substantiated an entitlement to **\$850.00** in unpaid rent for December 2014 and I dismiss the remaining claim for unpaid rent.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service** 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.

I grant the Landlord an order under Section 67 of the Act for the amount of **\$850.00**. 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: January 05, 2015

Residential Tenancy Branch

