



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Capital J. Management Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, 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. An Order to retain the security deposit - Section 38; 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 in person with the application for dispute resolution and notice of hearing 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 Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

Although the tenancy agreement puts June 1, 2014 as the tenancy start date, this is an error as the tenancy began on July 1, 2014. Rent of \$840.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected \$420.00 as a security deposit from the Tenant. The tenancy agreement provides for a \$25.00 NSF fee. The Tenant owes arrears of \$440.00 for November 2014 rent, having

provided an NSF cheque for this amount, and failed to pay rent for December 2014. On December 2, 2014 the Landlord served the Tenant in person with a 10 day notice to end tenancy for unpaid rent (the "Notice"). On December 15, 2014 the Tenant paid \$100.00 towards the rent and the Landlord gave the Tenant a receipt for "use and occupancy only". The Tenant has not made an application for dispute resolution, has not moved out of the unit and has not paid January 2015 rent. The Landlord claims unpaid rent for November and December 2014 and for January 2015 and an NSF fee.

Analysis

Section 55 of the Act provides that a landlord may seek 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 5 days from receipt of a notice to end tenancy for unpaid rent for the Tenant to either pay rent owed or make the application.

Based on the Landlord's evidence I find that the Tenant was given the Notice. The Tenant did not file an application to dispute the Notice and did not pay the outstanding rent or January 2015 rent. Given these facts, I find that the Landlord is entitled to an **Order of Possession**. I also find that the Landlord has established an entitlement to **\$2,020.00** in unpaid rents and **\$25.00** for an NSF charge. The Landlord is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$2,095.00**. Setting the security deposit of \$420.00 plus zero interest off the entitlement leaves **\$1,675.00** owed by the Tenant to the Landlord.

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 order that the Landlord retain the **deposit** and interest of \$420.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,675.00**. 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 28, 2015

Residential Tenancy Branch

