



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNSD MNDC FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

The landlord participated in the teleconference hearing, but the tenant did not call into the hearing. The landlord submitted evidence that they served the tenant with the application for dispute resolution and notice of hearing by registered mail sent on December 15, 2014. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I found that the tenant was deemed served with notice of the hearing on December 20, 2014, and I proceeded with the hearing in the absence of the tenant.

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

The tenancy began on May 1, 2014. Rent in the amount of \$1200 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$600. The tenant failed to pay rent in the months of November and December 2014 and on December 3, 2014 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent in the month of January 2015. The landlord has claimed the unpaid rent as well as unpaid utilities totaling \$108.

The Landlord's evidence included the following:

- a copy of a residential tenancy agreement, signed by the tenant and the landlord on May 1, 2104, indicating a monthly rent of \$1200 due on the first of each month;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on December 3, 2014, with an effective vacancy date of December 16, 2014, for failure to pay rent in the amount of \$2400 that was due on December 1, 2014;
- a copy of a Proof of Service of Notice to End Tenancy form showing that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the notice on the rental unit door on December 3, 2014;
- copies of utilities bills and calculation of the tenant's portion of the bills; and
- a copy of the Landlord's Application for Dispute Resolution, filed December 12, 2014.

Analysis

I have reviewed all evidence and I accept that the tenant was served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on December 6, 2014.

I accept the evidence before me that the tenant has failed to pay the rent owed within the five days granted under section 46(4) of the Act. I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. The landlord is therefore entitled to an order of possession.

As for the monetary order, based on the above-noted evidence I find that the landlord has established a claim for \$3600 in unpaid rent and lost revenue for November and December 2014 and January 2015, as well as \$108 in unpaid utilities. The landlord is also entitled to recovery of the \$50 filing fee.

Conclusion

I grant the landlord an order of possession effective two days from service. The tenant must be served with the 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.

The landlord is entitled to \$3758. I order that the landlord retain the security deposit of \$600 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3158. 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 13, 2015

Residential Tenancy Branch

