



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNDC, FF

Introduction

This hearing was scheduled in response to 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 / and recovery of the filing fee. The landlord attended and gave affirmed testimony.

The landlord testified that the application for dispute resolution and notice of hearing (the "hearing package") was personally served on the tenant on January 13, 2015. Despite this, the tenant did not appear at the hearing. Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the hearing package was served on the tenant in accordance with section 89 of the Act which speaks to **Special rules for certain documents**.

Issue(s) to be Decided

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

Background and Evidence

The unit which is the subject of this dispute is 1 of what are 2 separate rooms rented within the basement portion of a house. The landlord resides in the upstairs portion of the house. The tenant has separate kitchen and bathroom facilities from the landlord.

There is no written tenancy agreement in evidence for this tenancy which the tenant took over from a previous tenant on May 15, 2014. Monthly rent of \$410.00 is due and payable in advance on the first day of each month. It appears that a security deposit collected from the previous tenant was carried over into the subject tenancy.

Documentary evidence before me includes a copy of the Mutual Agreement to End a Tenancy document which was signed by the parties on December 14, 2014, and which reflects the tenant's agreement to vacate the unit on January 31, 2015.

Thereafter, the landlord issued a 10 day notice to end tenancy for unpaid rent dated January 03, 2015. 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 amount of rent shown as unpaid when due on January 01, 2015 is \$410.00. The date shown by when the tenant must vacate the unit is January 13, 2015. Subsequently, the tenant has made no further payment toward rent and he continues to reside in the unit.

Analysis

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 for unpaid rent dated January 03, 2015. As the notice was served by way of posting on the unit door on that same date, pursuant to section 90 of the Act which speaks to **When documents are considered to have been received**, the tenant is deemed to have received the notice 3 days later on January 06, 2015. 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 for compensation, I find that the landlord has established a claim of **\$665.00**:

\$410.00: *unpaid rent for January 2015*

\$205.00: *unpaid rent for the period of February 01 to 15, 2015*

\$50.00: *filing fee*

As to the disposition of the security deposit, the attention of the parties is drawn to section 38 of the Act which addresses **Return of security deposit and pet damage deposit**.

Finally, the attention of the parties is also drawn to Part 5 of the Regulation which addresses **Abandonment of Personal Property** (sections 24 to 31).

Conclusion

Pursuant to section 55 of the Act I hereby issue an **order of possession** in favour of the landlord effective **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 **\$665.00**. 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: February 02, 2015

Residential Tenancy Branch

