



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, FF
CNR

Introduction

This hearing concerns 2 applications: i) by the landlord for an order of possession for unpaid rent / a monetary order as compensation for unpaid rent / and recovery of the filing fee; and ii) by the tenant for cancellation of a notice to end tenancy for unpaid rent. The landlord attended and gave affirmed testimony.

The landlord testified that the application for dispute resolution and notice of hearing (the “hearing package”) was served on the tenant by way of registered mail. Evidence provided includes the Canada Post tracking number for the registered mail. The Canada Post website informs that the item was “accepted at the Post Office” on January 16, 2015, and that on January 21, 2015 there was “Attempted delivery. Notice card left indicating where item can be picked up.” Despite all of the foregoing, 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 and received by the tenant in accordance with sections 89 and 90 of the Act.

The landlord testified that the tenant’s hearing package was served on and received by him by way of registered mail.

Issue(s) to be Decided

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

Background and Evidence

Pursuant to a written tenancy agreement the tenancy began on May 15, 2010. The tenancy agreement reflects that monthly rent of \$650.00 is due and payable in advance on the first day of each month. However, the landlord testified that at some stage it was mutually agreed that rent would be reduced to \$600.00. The tenancy agreement also documents that a security deposit of \$400.00 was collected on May 15, 2010.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated January 05, 2015. The notice was served by posting on the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is January 15, 2015. Subsequently, the tenant filed an application to dispute the notice on January 12, 2015, however, the tenant has made no further payment toward rent and it appears that she and / or others continue to reside in the unit.

The landlord's application for dispute resolution was filed on January 14, 2015.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of landlord, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated January 05, 2015. As the notice was served by posting on the unit door on January 05, 2015, pursuant to section 90 of the Act the tenant is deemed to have received it 3 days later on January 08, 2015. The tenant applied to dispute the notice on January 12, 2015, which is within the 5 day period available for doing so pursuant to section 46(4) of the Act. However, the tenant did not pay the outstanding rent within 5 days of receiving the notice, and she failed to attend the hearing scheduled in response to applications filed by both parties. Accordingly, the tenant's application for cancellation of the notice is hereby dismissed, and 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 **\$1,850.00**:

\$600.00: *unpaid rent for December 2014*

\$600.00: *unpaid rent for January 2015*

\$600.00: *unpaid rent for February 2015*

\$50.00: *filing fee*

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, in part:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all of the above, I order that the landlord retain the security deposit of **\$400.00**, and I grant the landlord a **monetary order** for the balance owed of **\$1,450.00** (\$1,850.00 - \$400.00).

Conclusion

The tenant's application is hereby dismissed.

I hereby issue an **order of possession** in favour of the landlord effective not later than **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 **\$1,450.00**. 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 03, 2015

Residential Tenancy Branch

