



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding First Service Residential BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing concerns 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 / retention of the security deposit / and recovery of the filing fee. The landlord's agent (the "landlord") attended and gave affirmed testimony.

The landlord testified that the application for dispute resolution and the notice of hearing (the "hearing package") was served by registered mail. Evidence includes the Canada Post tracking number for the registered mail. The Canada Post website informs that the package was "unclaimed by recipient" and that it was subsequently returned to the sender / landlord. Despite this, I find that the tenant has been served in compliance with sections 89 and 90 of the Act which speak, respectively, to **Special rules for certain documents** and **When documents are considered to have been received**.

Issue(s) to be Decided

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

Background and Evidence

Pursuant to a written tenancy agreement the fixed term of tenancy is from August 15, 2014 to August 31, 2015. Monthly rent of \$1,200.00 is due and payable in advance on the first day of each month, and a security deposit of \$600.00 was collected.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated March 04, 2015. The notice was served by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail, and a copy of the notice. The date shown on the notice by when the tenant must vacate the unit is

March 14, 2015. Subsequently, the tenant made payments totalling \$2,890.00 as follows:

\$600.00: *March 30*
\$600.00: *April 20*
\$1,200.00: *May 04*
\$490.00: *May 05*

The landlord testified that the above payments discharge \$2,890.00 of the tenant's unpaid rent in combination with all NSF fees, such that only \$1,200.00 in rent remains unpaid to May 31, 2015. The landlord further testified that while the tenant appears committed to discharging this debt and having the tenancy continue, the landlord wishes to proceed with the application for dispute resolution.

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 March 04, 2015. The tenant did not pay the full amount of 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 to compensation I find that the landlord has established a claim of **\$1,250.00**, which is comprised of the balance of unpaid rent of \$1,200.00, following payments made after issuance of the 10 day notice, as above, in addition to the \$50.00 filing fee.

I order that the landlord retain the security deposit of **\$600.00**, and I grant the landlord a **monetary order** for the balance owed of **\$650.00** (\$1,250.00 - \$600.00).

Conclusion

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 **\$650.00**. Should it be necessary, 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: May 06, 2015

Residential Tenancy Branch

