



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding M'AKOLA HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNDC, MNR, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act"). The landlord applied for an order of possession for the rental unit due to unpaid rent, a monetary order for money owed or compensation for damage or loss and for unpaid rent, and for recovery of the filing fee paid for this application.

The landlord's agent (hereafter "landlord") attended; the tenant did not attend the telephone conference call hearing.

The landlord gave evidence that they served the tenant with the application for dispute resolution and notice of hearing by registered mail on May 6, 2015. The landlord supplied testimony of the tracking number of the registered mail.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit due to unpaid rent, monetary compensation, and to recovery of the filing fee paid for this application?

Background and Evidence

The landlord's evidence shows that this tenancy began on December 1, 2012, and current monthly rent is \$256.00, having been adjusted downwards since the beginning of the tenancy.

The landlord's evidence shows that on April 10, 2015, the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"), by regular mail, listing unpaid rent of \$2443.00 as of April 1, 2015. The effective vacancy date listed on the Notice was April 25, 2015.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained that alternatively the tenant had five days to dispute the Notice by making an application for dispute resolution.

The landlord submitted that the tenant made payments toward the rent deficiency and as of the date of the hearing, the tenant owed \$2405.00 in unpaid rent. The landlord's monetary claim listed on their application was \$3401.00.

The landlord submitted that they have had communication with the tenant and are seeking to work with the tenant to pay the rent deficiency, and that although they still requested an order of possession for the rental unit, they would continue to work with the tenant so that the tenant does not become unhoused, if possible.

I have no evidence before me that the tenant applied to dispute the Notice.

Analysis

I find the landlord submitted sufficient evidence to prove that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, did not pay the outstanding rent or file an application for dispute resolution in dispute of the Notice within 5 days of service and 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.

I therefore find that the landlord is entitled to and I grant an order of possession for the rental unit effective 2 days after service of the order upon the tenant. The order of possession for the rental unit is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

I also find that the landlord is entitled to a monetary award of \$2455.00, comprised of unpaid rent of \$2405.00 through June 2015 and the \$50.00 filing fee paid by the landlord for this application.

I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the amount of \$2455.00, which is enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the order may be filed in the Provincial Court of British Columbia (Small Claims) for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlord's application for an order of possession for the rental unit and a monetary order for unpaid rent has been granted.

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: June 16, 2015

Residential Tenancy Branch

