



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vancouver Eviction Services
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR, MNSD, MNDC FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of possession for unpaid rent, a monetary Order for unpaid rent and loss of rent revenue, to retain the security deposit and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that on May 13, 2015 copies of the Application for Dispute Resolution and Notice of Hearing and evidence were sent to the tenant via registered mail at the address noted on the Application. A Canada Post tracking number and receipt was provided as evidence of service. The Canada Post tracking information showed that the tenant signed accepting the mail on May 14, 2015.

I find these documents have been served effective May 14, 2015 in accordance with section 89 and 90 of the Act; however the tenant did not appear at the hearing.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Is the landlord entitled to a monetary Order for unpaid rent and rent revenue?

May the landlord retain the security deposit paid by the tenant?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced on September 3, 2011. Rent is \$1,600.00 due on the first day of the month. A security deposit in the sum of \$800.00 was paid. A copy of the signed tenancy agreement and addendum was supplied as evidence.

The addendum indicated the tenant was to pay first and last months' rent totaling \$3,200.00 plus the security deposit. The landlord testified that the tenant did not make a payment for last month's rent.

The landlord stated that on April 14, 2015 a 10 day Notice ending tenancy for unpaid rent or utilities, which had an effective date of April 24, 2015, was personally served to the tenant at 6:15 p.m. Service occurred at the rental unit address. The landlord supplied a proof of service document signed by the agent, S.M., who confirms service to the tenant.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$5,200.00 within five days after the tenant was assumed to have received the Notice. The Notice also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

The tenant made the following rent payments:

- \$790.00 November 2014;
- \$400.00 December 2014; and
- \$400.00 for each of January, February and March 2015; totalling \$2,390.00.

No further payments have been made.

From November 2014 to May 2015 the tenant owed \$11,200.00.

The landlord has claimed the balance owed in the sum of \$8,810.00.

The application indicated a claim in the sum of \$7,200.00; the landlord said this was a mathematical error. As rent is the most basic term of a tenancy I find that the application is amended to reflect a claim for unpaid rent from November 2014 to May 2015, inclusive.

Analysis

Section 90 of the Act stipulates that a document given personally is deemed served on the day of personal delivery. Therefore, I find that the tenant received the Notice to end tenancy on April 14, 2015.

Section 46(1) of the Act stipulates that a 10 day Notice ending tenancy is effective 10 days after the date that the tenant receives the Notice. As the tenant is deemed to have received this Notice on April 14, 2015, I find that the earliest effective date of the Notice is April 24, 2015.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice ending tenancy that required the tenant to vacate the rental unit on April 24, 2015, pursuant to section 46 of the Act.

Section 46 of the Act stipulates that a tenant has five days from the date of receiving the Notice ending tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the tenant exercised either of these rights; therefore, pursuant to section 46(5) of the Act, I find that the tenant accepted that the tenancy has ended on the effective date of the Notice; April 24, 2015.

In the absence of evidence to the contrary, I find that the tenant has not paid rent from November 2014 to April 24, 2015 and rent revenue from April 25, 2015 to May 31, 2015 in the amount of \$8,810.00 and that the landlord is entitled to compensation in that amount.

As the application has merit I find that the landlord is entitled to recover the \$100.00 filing fee from the tenant.

Pursuant to section 72 of the Act, I find that the landlord is entitled to retain the \$800.00 security deposit in partial satisfaction of the claim.

The landlord has been granted an Order of possession that is effective two days after service to the tenant. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Based on these determinations I grant the landlord a monetary Order for the balance of \$8,110.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord is entitled to an Order of possession and monetary Order for unpaid rent and loss of rent revenue.

The landlord may retain the security deposit.

The landlord is entitled to filing fee costs.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 23, 2015

Residential Tenancy Branch

