



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BOUNDARY MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution under the *Residential Tenancy Act* (the “*Act*”) by the landlord for an order of possession for unpaid rent, for a monetary order for unpaid rent, and to recover the cost of the filing fee.

An agent for the landlord (the “agent”), occupant C.G. (the “occupant”) and a legal advocate for the occupant appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide her evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the “Notice of Hearing”) was considered. The agent testified under oath that she served the Notice of Hearing by hand delivering it via personal service on the tenant at approximately 11:00 a.m. on May 25, 2015 at her office. I accept that the tenant was duly served in accordance with the *Act* on May 25, 2015 as the occupant did not dispute this information and confirmed that the tenant advised her of the Notice of Hearing, which is how she found out about calling in for the teleconference hearing.

Preliminary and Procedural Matter

At the start of the hearing, the occupant and the legal advocate for the occupant testified under oath that they were not attending the hearing to represent the tenant, and requested that occupant C.G. be removed from the application as she was not a tenant. Based on the tenancy agreement submitted in evidence which supports that C.G. was an occupant and not a tenant, and by agreement of the agent for the landlord, the request was granted and the application was amended pursuant to section 64(3) of the *Act* by removing occupant C.G. from the landlord’s application.

Issues to be Decided

- Is the landlord entitled to an order of possession under the *Act*?
- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?

Background and Evidence

The agent stated that a month to month tenancy agreement began on August 6, 1998. A copy of the tenancy agreement was submitted in evidence. The agent testified that monthly rent of \$715 is due on the first day of each month.

The agent testified that the 10 Day Notice for Unpaid Rent or Utilities, (the "10 Day Notice") was posted to the tenant's door on May 6, 2015. The 10 Day Notice indicates that \$1,627.50 was due May 1, 2015 and had an effective vacancy date of May 16, 2015. The agent stated that the tenant has also failed to pay any rent for the months of June 2015 or July 2015 since being served with the 10 Day Notice and continues to occupy the rental unit. The agent stated that the tenant did not dispute the 10 Day Notice or pay any amount towards arrears owing since being served with the 10 Day Notice.

The agent requested that their monetary claim of \$2,342.50 be increased to \$3,057.50 to include unpaid rent for June and July 2015 at \$715 per month for each of those months for a total in unpaid rent as follows:

Month	Amount of Rent Unpaid
March 2015	\$697.50
April 2015	\$215
May 2015	\$715
June 2015	\$715
July 2015	\$715
TOTAL RENT OWING AS OF DATE OF HEARING	\$3,057.50

The landlord provided a copy of the 10 Day Notice in evidence for this proceeding.

Analysis

Based on the documentary evidence and the undisputed oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of Possession – I find that the tenant failed to pay the rent for the months of as claimed by the landlord. The tenant is conclusively presumed pursuant to section 46 of the *Act*, to have accepted that the tenancy ended on the effective date of the 10 Day Notice which automatically corrects under the *Act* to May 19, 2015. Accordingly, I grant the landlord an order of possession effective **two (2) days** after service on the tenant.

Claim for unpaid rent– The agent testified that as of the date of the hearing, the tenant owes \$3,057.50 in unpaid rent as described above. Pursuant to section 26 of the *Act*, a tenant must pay rent when it is due in accordance with the tenancy agreement. Based on the above, I find

that the tenant has failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month. The tenant continues to occupy the unit. The landlord will not regain possession of the unit until after service of the order of possession. I find the landlord has met the burden of proof and I find the landlord has established a monetary claim of **\$3,057.70** as indicated above. I amend the landlord's original claim of \$2,342.50 to \$3,057.50 pursuant to section 64(3) of the *Act* as I find that it is reasonable that the tenant would expect that unpaid rent for June and July 2015 would be considered at this hearing as it remains unpaid as of the date of this hearing.

As the landlord has succeeded with their application, I grant the landlord the recovery of the **\$50.00** filing fee.

Monetary Order – I grant the landlord a monetary order pursuant to section 67 of the *Act* in the amount of **\$3,157.50** comprised of \$3,057.70 in unpaid rent, plus the \$50.00 filing fee.

Conclusion

The landlord has been granted an order of possession effective **two (2) days** after service upon the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The landlord has been granted a monetary order pursuant to section 67 of the *Act* in the amount of \$3,157.50. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

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: July 8, 2015

Residential Tenancy Branch

