



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOLLYBURN ESTATES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, for a monetary order for unpaid rent or utilities, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee from the tenant.

Although served with the Application for Dispute Resolution and Notice of Hearing, by registered mail sent on July 24, 2015 and received by the tenant on August 5, 2015, the tenant did not appear. A Canada post tracking number was provided as evidence of service. I find that the tenant has been duly served in accordance with the Act.

The landlord's agent, gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Preliminary matter

At the outset of the hearing the landlord's agent indicated that they are no longer seeking a monetary order nor to retain the tenant's security as all rent has been paid up to and including September 2015. The agent stated that they are still seeking an order of possession and to recover their filing fee.

Issue to be Decided

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

Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenant was served with a notice to end tenancy for non-payment of rent on July 7, 2015, by posting to the door. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The landlord's agent stated that the tenant did not pay the outstanding rent within five days and did not dispute the notice.

The landlord's agent stated that when the tenant was served with the notice on July 7, 2015, the tenant had not paid rent in the amount of \$1,005.00. The agent stated that on August 1, 2015, the tenant paid the amount of \$1,065.00, and a receipt for use and occupancy was issued. The

agent stated that the tenant paid the amounts of \$1,065.00 on September 1 and 15th and receipts were issued for use and occupancy.

The landlord seeks to obtain an order of possession and a monetary to recover the filing fee.

Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

The tenant did not paid the outstanding rent within five days and did not apply to dispute the notice 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 find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord has established a total monetary claim of \$50.00 to recover the filing fee and I grant the landlord an order pursuant to section 67 of the Act. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The tenant failed to pay rent within five days and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession and a monetary order in the above amount.

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: October 01, 2015

Residential Tenancy Branch

