



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Rockwell Management Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. The landlord was represented by 2 agents who gave affirmed testimony. The tenant did not appear.

The landlord testified that the application for dispute resolution and the notice of hearing (the "hearing package") was served by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered" on September 17, 2015. Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant has been duly served in compliance with sections 89 and 90 of the Act which address, respectively, **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, a copy of which is not in evidence, the tenancy began on October 01, 2012. Monthly rent is due and payable in advance on the first day of each month. At the start of tenancy, monthly rent was \$725.00. Effective October 01, 2015, monthly rent became \$743.00. A security deposit of \$362.50 was collected at the start of tenancy.

Arising from rent which was unpaid when due on August 01, 2015, the landlord issued a 10 day notice to end tenancy dated August 06, 2015. The notice was served by way of

posting to the unit door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is August 16, 2015. Subsequently, the tenant made no further payment toward rent and she continues to reside in the unit.

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 August 06, 2015. The tenant did not pay the 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 **\$5,161.00**:

\$3,625.00: (5 x \$725.00) *unpaid rent for May, June, July, August, September 2015*

\$1,486.00: (2 x \$743.00) *unpaid rent for October & November 2015*

\$50.00: *filing fee*

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, in part:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all of the above I order that the landlord retain the security deposit of **\$362.50**, and I grant the landlord a **monetary order** for the balance owed of **\$4,798.50** (\$5,161.00 - \$362.50).

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 **\$4,798.50**. 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: November 16, 2015

Residential Tenancy Branch

