



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MACDONALD COMMERCIAL RES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession, a monetary Order for unpaid rent, to retain all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord #1 stated that on December 04, 2015 the Application for Dispute Resolution, the Notice of Hearing and documents the Landlord submitted to the Residential Tenancy Branch on December 03, 2015 were sent to the Tenant, via registered mail. The Landlord submitted Canada Post documentation that corroborates this statement. The Tenant acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession; to a monetary Order for unpaid rent; and to keep all or part of the security deposit?

Background and Evidence

The Landlord and the Tenant agree that:

- this tenancy began on March 01, 2014;
- the Tenant agreed to pay monthly rent of \$1,100.00 by the first day of each month;
- the Tenant paid a security deposit of \$550.00;
- the Tenant paid rent for November on November 01, 2015 or November 02, 2015;
- after the rent for November was paid the Tenant's rent was still in arrears by \$1,100.00; and
- the Tenant has paid her rent for December of 2015.

The Agent for the Landlord #1 stated that on November 04, 2015 he posted a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of November 17, 2015, on the door of the rental unit. The Tenant stated that she believes she received the Notice on November 04, 2015 and that she did not file an Application for Dispute Resolution to dispute the Notice.

Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$1,100.00 by the first day of each month and that on November 04, 2015 her rent was in arrears by \$1,100.00. As the Tenant is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$1,100.00 in outstanding rent to the Landlord.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within ten days, by providing proper written notice. On the basis of the undisputed evidence, I find that the Ten Day Notice to End Tenancy, served pursuant to section 46 of the *Act*, was posted at the rental unit on November 04, 2015.

Section 46 of the *Act* stipulates that a Tenant has five days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. On the basis of the undisputed evidence I find that the Tenant did not exercise either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy ended on November 04, 2015. On this basis I grant the landlord an Order of Possession.

The Landlord and the Tenant agreed that the Tenant could remain in the rental unit until January 31, 2016 providing the Tenant pays \$1,100.00 in rent for January of 2016.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective **two days after it is served upon 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. **In the event the Tenant has paid her rent for January of 2016 by January 01, 2016, this Order may not be served upon the Tenant until January 29, 2016. In the event the Tenant has not paid her rent for January by January 01, 2016, this Order may not be served upon the Tenant any time after January 02, 2016.**

The Landlord has established a monetary claim, in the amount of \$1,150.00, which is comprised of \$1,100.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Pursuant to section 72(2) of

the *Act*, I authorize the Landlord to keep the Tenant's security deposit of \$550.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$600.00. 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.

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: December 29, 2015

Residential Tenancy Branch

