



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC Housing Management Commission
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MND, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for an Order of Possession and a monetary order for unpaid rent or utilities; for a monetary order for damage to the unit, site or property; and to recover the filing fee from the tenant for the cost of the application.

An agent for the landlord attended the hearing, gave affirmed testimony, and provided evidentiary material in advance of the hearing. However, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant attended the call during that time. The landlord's agent testified that the tenant was served with the Landlord Application for Dispute Resolution and notice of this hearing by registered mail on October 22, 2015 and has provided a copy of a Canada Post tracking print-out confirming that testimony. I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*. The testimony and all evidence provided by the landlord is considered in this Decision.

Issue(s) to be Decided

- Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?
- Has the landlord established a monetary claim as against the tenant for damage to the unit, site or property?

Background and Evidence

The landlord's agent (hereafter referred to as the landlord) testified that this month-to-month tenancy began on October 28, 2010 and the tenant still resides in the rental unit. Rent in the amount of \$435.00 per month is payable on the 1st day of each month. The

landlord did not collect a security deposit or a pet damage deposit from the tenant. A copy of the tenancy agreement has been provided.

The landlord further testified that the tenant fell into arrears of rent and currently owes \$1,567.40. The landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on October 8, 2015 by regular mail and has provided a copy of both pages of the 2-page notice. It is dated October 8, 2015 and contains an expected date of vacancy of October 23, 2015 for unpaid rent in the amount of \$697.40. No rent has been paid since the issuance of the notice, and the landlord has not been served with an application for dispute resolution by the tenant disputing the notice.

The landlord also testified that in April, 2015 the tenant made a written request for a lock to be changed at the rental unit, and agreed on that document to pay \$35.00. A copy of the document has been provided. The tenant has not made the payment and the landlord seeks monetary compensation in that amount as well as recovery of the \$50.00 filing fee.

Analysis

The *Residential Tenancy Act* states that once a tenant is served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant has 5 days to pay the rent in full or dispute the notice by filing an application for dispute resolution. If the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy and must move out of the rental unit. In this case, I am satisfied that the tenant was served with the notice on October 8, 2015 by regular mail, which is deemed to have been served 5 days later. The tenant has not disputed the notice and has not paid the rent, and therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an Order of Possession. Since the effective date of vacancy is now in the past, I grant the order on 2 days notice to the tenant.

I also accept the undisputed testimony of the landlord that the tenant is currently in arrears of rent the sum of \$1,567.40. The tenant owed \$697.40 when the notice was issued in October and has not paid any rent since its issuance. Therefore, I find that the tenant owes that amount in addition to \$435.00 for November and \$435.00 for December, 2015.

With respect to the lock change, I have read the agreement stating that the tenant requested a lock change and agreed in writing to pay the \$35.00 fee. I accept the undisputed testimony of the landlord that the tenant has not paid it, and I grant a monetary order in favour of the landlord in that amount.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,652.40.

These orders are final and binding and may be enforced.

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 17, 2015

Residential Tenancy Branch

