



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing concerns the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. The landlord's agent (the "landlord") attended and 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 registered mail. Evidence submitted includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the tenant signed for delivery of the hearing package on January 28, 2016. Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant has been served in accordance with section 89 of the Act which addresses **Special rules for certain documents**.

Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement the fixed term of tenancy is from July 02, 2015 to July 31, 2016. Monthly rent of \$890.00 is due and payable in advance on the first day of each month, and a security deposit of \$445.00 was collected. By way of a "parking addendum to tenancy agreement," a \$40.00 fee for parking is also due on the first day of each month.

Arising from rent which was unpaid when due on January 01, 2016, the landlord issued a 10 day notice to end tenancy for unpaid rent dated January 05, 2016. The notice was

served by 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 January 18, 2016. Subsequently, the tenant continues to reside in the unit, and he has made the following limited installment payments toward rent, parking and applicable fees assessed for late payment of rent:

\$600.00: *January 11, 2016*

\$355.00: *January 25, 2016*

\$500.00: *February 23, 2016*

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 January 05, 2016. The tenant did not pay the full amount of 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 **\$1,510.00**:

\$415.00: *unpaid rent for February 2016*

\$40.00: *unpaid parking fee for February 2016*

\$890.00: *unpaid rent for March 2016*

\$25.00: *fee assessed for late payment of March rent*

\$40.00: *unpaid parking fee for March 2016*

\$100.00: *filing fee*

I order that the landlord retain the security deposit of **\$445.00**, and I grant the landlord a **monetary order** for the balance owed of **\$1,065.00** (\$1,510.00 - \$445.00).

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 **\$1,065.00**. 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: March 08, 2016

Residential Tenancy Branch

