



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BARAFIELD REALTY LIMITED
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, CNC, CNR, FF

Introduction

This hearing dealt with cross applications. The landlord has filed an application seeking an order of possession and a monetary order. The tenant has filed an application seeking an order to have a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities set aside. The landlord participated in the conference call hearing but the tenant(s) did not. Both parties were given notice of hearing packages from the Branch at the time each of them filed an application stating the date, time and passcode for this teleconference. I found that the tenants had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence. The landlord submitted extensive documentary evidence for this hearing; the tenant did not submit any documentation for consideration.

Based on the tenants choosing not to "dial into" the conference and not submitting any documentation, I hereby dismiss the tenants' application in its entirety. The hearing proceeded and completed on that basis.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Background and Evidence

The landlord gave the following testimony:

The tenancy began on or about January 1, 2015. Rent in the amount of \$812.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$395.00. The tenant failed to pay rent in the month(s) of February and on February 11, 2016 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of March and April. The landlord advised that as of today's hearing the amount of unpaid rent is \$1646.00.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. 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.

As for the monetary order, I find that the landlord has established a claim for \$1646.00 in unpaid rent. The landlord is also entitled to recovery of the \$100.00 filing fee.

Although the landlord's application does not seek to retain the deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenant's security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1351.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary order for \$1351.00. The landlord may retain the security deposit.

The tenants' application is dismissed in its entirety.

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: April 12, 2016

Residential Tenancy Branch