



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNSD MNDC FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, submitted to the Residential Tenancy Branch on May 20, 2016 (the "Application").

The Landlord applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"): an order of possession for unpaid rent; a monetary order for unpaid rent; an order permitting the Landlord to retain the security deposit; an order for money owed or compensation for damage or loss; and an order granting recovery of the filing fee.

The Landlord was represented at the hearing by C.R. and C.C., both of whom provided their solemn affirmation. The Tenant did not attend the hearing.

On behalf of the Landlord, C.R. testified that the Tenant was served with the Application and the Notice of a Dispute Resolution Hearing by registered mail on May 25, 2016. C.R. provided oral testimony regarding the Canada Post tracking information which confirmed the documents were received by the Tenant on May 26, 2016. I find the Tenant was duly served with the Application and the Notice of a Dispute Resolution Hearing on May 26, 2016.

The Landlord was given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

Is the Landlord entitled to an order of possession for unpaid rent?
Is the Landlord entitled to a monetary order for unpaid rent?
Is the Landlord entitled to retain the security deposit in partial satisfaction of the claim?
Is the Landlord entitled to recover the filing fee paid to bring the Application?

Background and Evidence

The documentary evidence submitted by the Landlord included a copy of the tenancy agreement between the parties. It confirms a month-to-month tenancy commenced on November 1, 2015. Rent in the amount of \$900.00 is due and payable on the first day of each month. The Tenant paid a security deposit of \$450.00.

The Landlord submitted documentary evidence confirming rent has not been paid when due. A Tenant Leger for the period from November 2, 2015 to May 1, 2016, confirms outstanding rent for that period to be \$1,690.00.

On behalf of the Landlord, C.R. provided oral testimony confirming that rent for June 2016 was not paid when due, and that the total outstanding rent is \$2,590.00.

The Landlord's documentary evidence included a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated May 6, 2016 (the "10 Day Notice"). On the Landlord's behalf, C.C. provided oral testimony confirming he served the 10 Day Notice on the Tenant, in person, on May 6, 2016.

The Landlord requested that the security deposit be applied in partial satisfaction of the claim.

Analysis

Based on the affirmed testimony and documentary evidence, and on a balance of probabilities, I find as follows:

I find that the Tenant was duly served with the 10 Day Notice on May 6, 2016.

Pursuant to section 46 of the *Act*, a tenant who receives a notice to end tenancy and wishes to dispute it has 5 days to either pay rent or file an application for dispute resolution. When a tenant receives a notice to end tenancy under this provision and does not pay rent or file an application for dispute resolution, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the notice.

The Tenant did not pay rent or file an application for dispute resolution within the applicable time period. Accordingly, I find the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the 10 Day Notice.

I find the Landlord is entitled to an order of possession, which will be effective 2 days after service upon the Tenant.

In addition, section 67 of the *Act* permits me to order a party to pay compensation for damage or loss to the other for failing to comply with the *Act*, the regulations or a tenancy agreement.

I find the Landlord has established a total monetary claim of \$2,690.00, comprised of a monetary award of \$2,590.00 for unpaid rent and \$100.00 for recovery of the filing fee.

The Landlord wishes to apply the security deposit (\$450.00) in partial satisfaction of unpaid rent, which I allow. Accordingly, I grant a monetary order to the Landlord in the amount of \$2,240.00 (\$2,690.00 - \$450.00).

Conclusion

I grant the Landlords an order of possession, which will be effective 2 days after service on the Tenant. This Order may be filed in and enforced as an order of the Supreme Court of British Columbia.

In addition, I grant the Landlords a monetary order in the amount of \$2,240.00. This Order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: June 22, 2016

Residential Tenancy Branch