



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR MNR MNSD FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for unpaid rent and utilities pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The tenant confirmed service of the application for dispute resolution, including the notice of hearing and evidence on file.

At the hearing, the landlord testified that the tenant has paid all outstanding rent in full as of June 27, 2016. The landlord withdrew the claim for unpaid rent but wished to proceed with its application for an order of possession.

Issues

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

A written tenancy agreement was entered into and signed by the parties on April 16, 2012. A copy of the written agreement was provided on file. The tenancy began on June 1, 2012 with a monthly rent of \$2000.00 payable on the 1st day of each month. The tenant paid a security deposit of \$1000.00 at the start of the tenancy which the landlord continues to hold.

On May 6, 2016 the landlord served the tenant with a 10 day Notice to End Tenancy for unpaid rent or utilities by posting a copy to the door of the rental premises.

The tenant acknowledged service of the 10 day Notice and that she did not pay the full amount of the arrears indicated, within five days, of receiving the Notice.

Analysis

I am satisfied that the tenant was deemed served with the 10 day Notice to End Tenancy on May 9, 2016, three days after its posting, pursuant to sections 88 & 90 of the Act.

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, May 19, 2016.

Therefore, I find that the landlord is entitled to an Order of Possession.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application.

The landlord continues to hold a security deposit of \$1000.00. I allow the landlord to retain \$100.00 from the security deposit in full satisfaction of this monetary award pursuant to section 38 of the Act.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: July 05, 2016

Residential Tenancy Branch