



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR MNR

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent.

The landlord participated in the teleconference hearing, but the tenant did not call into the hearing. The landlord submitted evidence that she served the tenant with the application for dispute resolution and notice of hearing by registered mail sent on May 5, 2016. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I found that the tenant was deemed served with notice of the hearing on May 10, 2016, and I proceeded with the hearing in the absence of the tenant.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Background and Evidence

The tenancy began on November 1, 2015. Rent in the amount of \$850.00 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a pet deposit from the tenant in the amount of \$100.00. The tenant failed to pay \$50.00 of the rent in the month of April 2016 and on April 15, 2016 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent in the months of May and June 2016.

The Landlord's evidence included the following:

- a copy of a residential tenancy agreement, signed by the tenant and the landlord on November 1, 2015, indicating a monthly rent of \$850.00 due on the first of each month;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on April 15, 2016, with an effective vacancy date of April 25, 2016, for failure to pay rent in the amount of \$450.00 that was due on April 1, 2016;

- a Proof of Service of Notice to End Tenancy showing that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting the notice on the rental unit door in the presence of a witness on April 15, 2016; and
- a copy of the Landlord's Application for Dispute Resolution, filed May 4, 2016.

Analysis

I have reviewed all evidence and I accept that the tenant was served with the notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on April 18, 2016.

I accept the evidence before me that the tenant has failed to pay the rent owed within the five days granted under section 46(4) of the Act. I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on April 28, 2016, the corrected effective date of the notice. The landlord is therefore entitled to an order of possession.

As for the monetary order, based on the above-noted evidence I find that the landlord has established a claim for \$2,150.00 in unpaid rent and lost revenue.

Conclusion

I grant the landlord an order of possession effective two days from service. 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.

The landlord is entitled to \$2,150.00. I order that the landlord retain the pet deposit of \$100.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,050.00. This order may be 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: June 2, 2016

Residential Tenancy Branch