



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW HEARING DECISION

Dispute Codes:

OPR MNR

Introduction

This hearing was convened in response to a successful Application for Review by the tenant allowing this Review Hearing. The landlord's original application by Direct Request sought orders pursuant to the *Residential Tenancy Act* (the Act) as follows:

1. An Order of Possession - Section 55
2. A Monetary Order for unpaid rent / loss of revenue - Section 67

The landlord received an Order of Possession and a Monetary Order for the outstanding rent to date, which are currently suspended.

Both parties received Notice of Hearing documents and both attended this hearing and each was given opportunity to be heard, to present evidence and to make submissions.

Preliminary matters

The tenant acknowledged they had not sent the landlord a copy of the Review Consideration Decision and their evidence for this matter, neither by registered mail nor personally given it to the landlord as they were ordered within the Review Decision. The landlord testified they did not receive either of the foregoing from the tenant, however was appearing in this matter upon receiving the notice for this reconvened hearing from the Branch. As a result of the foregoing, I find all evidence previously advanced by the tenant in support of their application for review inadmissible and it has not been considered. The tenant was permitted to advance evidence orally in testimony.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?
Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The undisputed evidence is as follows. The parties agree the tenancy began on April 01, 2016 and is the subject of a written tenancy agreement. Rent in the amount of \$1200.00 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant which they hold in trust. The tenant failed to pay rent when due in the month of May 2016 and on May 05, 2016 the landlord testified they served the tenant with a Notice to End tenancy for non-payment of rent by posting it to the tenant's unit door. The landlord provided Proof of Service of the Notice indicating the landlord's service was further witnessed by TC. The tenant claims they personally did not receive the Notice as they were not present in the unit the day of the claimed service; however testified their co-tenant, then present and still residing in the unit at the time, may have received it.

Both parties acknowledged that on May 10, 2016 the tenant paid \$570.00 toward the payable rent and received a receipt for the partial payment, "for use and occupancy only". The tenant has not paid the remainder of May 2016 rent and has further failed to pay rent in/for the month of June 2016.

Analysis

Based on the available evidence of both parties I find I prefer the evidence of the landlord in respect to the service of the Notice to End Tenancy for non-payment of rent. I accept the landlord's document evidence stating they posted the Notice on the tenant's rental unit door on May 02, 2016 and I find the notice complies with Section 52 of the Act and is valid. I find the tenant is deemed to have received the Notice May 05, 2016. I accept the tenant's undisputed testimony they ultimately paid only \$570.00 of the payable rent on May 10, 2016 for which they received a receipt acknowledging the payment and accepted by the landlord "for use and occupancy only" and not re-instating the tenancy. I accept the evidence from both parties that the tenant also did not pay the outstanding rent for May 2016 and has not paid any rent for June 2016. Based on the above facts I find that the landlord is entitled to an **Order of Possession**.

I also find that the landlord has established a monetary claim for unpaid rent for May 2016 and for June 2016.

Calculation for Monetary Order

Rental Arrears for May 2016	\$630.00
Unpaid rent for June 2016	\$1200.00
Total Monetary Award to landlord	\$1830.00

Conclusion

I Order the original Decision and Orders in this matter set aside.

I grant an Order of Possession to the landlord effective **June 30, 2016**. The tenant must be served with this 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.

I grant the landlord a **Monetary Order** under Section 67 of the Act for the amount of **\$1830.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

This Decision is final and binding on both parties.

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 21, 2016

Residential Tenancy Branch