



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BAYSIDE PROPERTY SERVICES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, for a monetary order for unpaid rent or utilities, for money owed or compensation for loss under the Act, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee from the tenant.

Both parties appeared gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

Preliminary matter

In this case the landlord has DH listed as a second respondent in their application. However, DH is not a tenant under the tenancy agreement and has no legal rights or obligations under the Act. Therefore, I have removed DH from the style of cause.

Issues to be Decided

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

Is the landlord entitled to a monetary order?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

Based on the testimony of the parties, I find that the tenant was served with a notice to end tenancy for non-payment of rent on August 3, 2016, by serving an adult person residing in the rental unit. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The tenant stated that they did not dispute the notice and they did not pay the rent within five days after receiving the notice. The tenant indicated that they have vacated the rental unit.

It should be noted that the tenant chose to exit the hearing at this point of the hearing as they were informed that issues that are not properly before me will not be heard or considered.

The landlord's agent testified that when the notice was issued the tenant was in arrears of \$1,080.00. The agent stated that on August 12, 2016, they received from the tenant the amount of \$1,040.00, leaving the balance owed for August 2016, in the amount of \$40.00.

The landlord's agent testified that the tenant did not pay any the outstanding rent and has not paid rent for September and October 2016. The agent indicated that they saw the tenant at the rental unit on Friday September 30, 2016, carrying their groceries and again on October 1, 2016, doing their laundry. The agent stated that the tenant has not given them any indication that they have vacated the rental premise. The landlord seeks an order of possession and a monetary for unpaid rent in the amount of \$2,194.00.

The landlord's agent testified that they seek to recover the late fees they are entitled to collect under the terms of the tenancy agreement. The agent stated the tenant was late paying rent for February, March, April, July, August, September, and October 2016. The landlord seeks to recover late fees in the amount of \$175.00. Filed in evidence is a copy of the tenancy agreement, which support the landlord's claim to late fees.

Analysis

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

The tenant has not paid the outstanding rent within five days, did not apply to dispute the notice, and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord has established a total monetary claim of **\$2,469.00** comprised of unpaid rent as stated above, the late fees and the \$100.00 fee paid by the landlords for this application.

I order that the landlord retain the security deposit of \$500.00 in partial satisfaction of the claim and I grant the landlord an order pursuant to section 67 of the Act, for the

balance due of **\$1,969.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The tenant failed to pay rent and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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: October 04, 2016

Residential Tenancy Branch