



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, OPR

Introduction

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

- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- an Order of Possession for non-payment of rent pursuant to section 55

The landlord submitted documentary evidence that the tenant was served notice of this application and this hearing by registered mail on September 15, 2016 but was unclaimed by the tenant. Canada Post tracking information was submitted in the landlord's evidence to reflect the above. Based on the submissions of the landlord, I find the landlord met their responsibilities and made all reasonable attempts in accordance with Section 89 of the *Act*. Therefore, I continued in the absence of the tenant.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Background and Evidence

The landlord gave the following testimony. The tenancy began on or about August 1, 2015. Rent in the amount of \$2700.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$1350.00. The tenant failed to pay rent in the month(s) of September and on September 5, 2016 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of October and November.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession pursuant to Section 55 of the Act. 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.

As for the monetary order, I find that the landlord has established a claim for \$8100.00 in unpaid rent. The landlord did not apply to recover the cost of the filing fee for this application. . Although the landlord's application does not seek to retain the deposit, using the offsetting provisions of section 72 of the Act, I allow the landlord to retain the tenant's security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$6750.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary order for \$6750.00. The landlord may retain the security deposit.

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: November 03, 2016

Residential Tenancy Branch