



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNR

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”).

The Landlord applied on January 16, 2017 for:

1. An Order of Possession - Section 55; and
2. An Order for unpaid rent or utilities - Section 67.

The Tenant applied on January 18, 2017 for:

1. An Order cancelling a notice to end tenancy - Section 46.

The Tenants did not attend the hearing to pursue their application. As a result I dismiss the Tenants’ application. I accept the Landlord’s evidence that each Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenants are deemed to have received the Materials. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to unpaid rent?

Background and Evidence

The tenancy started on January 1, 2017. Rent of \$1,350.00 is payable monthly on the first day of each month. No security deposit was paid. The Tenant failed to pay rent for January 2017 and on January 13, 2017 the Landlord served the Tenants with a 10 day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the door. On January 18, 2017 the Landlord received \$500.00 for rent. The Landlord issued a receipt for "use and occupancy only". The Tenant has not moved out of the unit and has not paid rent for February 2017. The Landlord claims unpaid rent and an order of possession for as soon as possible.

Analysis

Section 55(1) provides that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 52 of the Act provides that In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the rental unit,
- (c) state the effective date of the notice,
- (d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

Considering that the required form and content is contained on the Notice and given the dismissal of the Tenants' application I find that the Landlord is entitled to an order of possession.

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement. Rent is payable until a tenancy ends. Based on the Landlord's evidence, I find that the Tenants failed to pay rent as required under the tenancy agreement and that the Landlord is entitled to unpaid rent for January 2017 in the amount of **\$850.00**. As the Landlord is being granted an order of possession that requires the Tenants to move within 2 days of it being served I find that the Landlord is entitled to rent to February 20, 2017 in the amount of **\$964.20**, calculated at a per diem rate of \$48.21 per day for 20 days. The Landlord is at liberty to apply for additional rent or lost rental income should the Tenants remain in the unit past February 20, 2017.

Conclusion

I grant an Order of Possession to the Landlord. 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 an order under Section 67 of the Act for the balance due of **\$1,814.20**. If necessary, 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: February 16, 2017

Residential Tenancy Branch