



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. A Monetary Order for compensation - Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing (the “Materials”) 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 registered mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenant is 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 a monetary order?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on August 15, 2016. Rent of \$1,800.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$900.00 as a security deposit. The Tenants owed arrears of \$1,800.00 and failed to pay rent for January 2017. On January 12, 2017 the Landlord served the Tenant with a 10 day notice to end the tenancy for unpaid rent (the "Notice"). The Tenant did not dispute the Notice and have not moved out of the unit. The Tenant has not paid rent for February and March 2017. The Landlord seeks an order of possession and unpaid rent to March 15, 2017.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent the tenant must, within five days, either pay the full amount of the arrears indicated on the notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Based on the undisputed evidence of the Landlord I find that the Landlord gave the Tenant the Notice and the Tenant did not dispute the Notice. As a result 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 Tenant has failed to pay rent as required under the tenancy agreement and that the Landlord is entitled to unpaid rent to March 15, 2017 in the amount of **\$6,300.00**. I dismiss the Landlord's claim for compensation with leave to reapply should the Landlord suffer any lost rental income after March 15, 2017. As the application is successful I find that the Landlord is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$6,400.00**. Deducting the security deposit of **\$900.00** plus zero interest leaves **\$5,500.00** owed by the Tenant to the Landlord.

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 order that the Landlord retain the **deposit** and interest of \$900.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$5,500.00**. 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: March 02, 2017

Residential Tenancy Branch