



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

matter regarding NEW to protect privacy]

DECISION

Dispute codes OPC MNR FF

Introduction

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

- an order of possession for cause pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 11:13 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord's agent testified that on February 17, 2017, he personally served the tenant with a copy of the Application for Dispute Resolution and Notice of Hearing.

Based on the above evidence, I am satisfied that the tenant was personally served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to section 89 of the Act. The hearing proceeded in the absence of the tenant.

Preliminary Issue – Amendment to Landlord's Application

Paragraph 64(3)(c) of the Act allows me to amend an application for dispute resolution.

At the hearing, the landlord testified that the tenant had not yet vacated the rental unit and therefore asked to amend its claim to include outstanding rent in the amount of \$436.00 that was payable on March 1, 2017. Although the tenant did not have prior notice of this claim, I find that the tenant should reasonably have known that the landlord would suffer this loss if the tenant neither paid rent nor vacated the rental unit. I therefore allowed the landlord's request for an amendment.

Issues

Is the landlord entitled to an order of possession for cause?

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The tenancy began on May 1, 1989 and the current subsidized monthly rent is \$436.00 payable on the 1st day of each month.

The landlord testified that on January 25, 2017 he personally served the tenant with the 1 Month Notice to End Tenancy for Cause.

The landlord's monetary claim is for outstanding rent plus NSF fees in the amount of \$2666.00. The landlord testified that this includes unpaid rent for the months of September 2016, October 2016, December 2016, January 2017, February 2017 and March 2017 plus \$25.00 NSF fees incurred for the months of September and October 2016. The landlord submitted an account statement detailing the above arrears amounts.

Analysis

I am satisfied that the tenant was personally served with the 1 Month Notice to End Tenancy for Cause on January 25, 2017 pursuant to section 88 of the Act.

Pursuant to section 47 of the Act, the tenant may make a dispute application within ten days of receiving the 1 Month Notice. If, as in the present case, the tenant does not make an application for dispute with ten days, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, February 28, 2017.

I find that the Notice issued by the landlord complies with the requirements of Section 52 of the Act, accordingly, the landlord is granted an Order of Possession pursuant to section 55 of the Act.

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I accept the landlord's uncontested evidence and claim for outstanding rent and NSF fees of \$2666.00.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$2766.00.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$2766.00. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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 14, 2017

Residential Tenancy Branch