



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PCPM ITF PACIFIC COVE ISLAND PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes opr, mnr, mndc, ff

Introduction

The landlord has applied for dispute resolution of a dispute in the tenancy at the above noted address, and requests an Order of Possession and a Monetary Order for unpaid rent.

The tenant did not attend the hearing. I accept that the tenant was properly served with both the Notice to End Tenancy (by posting), and the Landlord's application (by registered mail), satisfying the requirements of section 88 and 89 of the Residential Tenancy Act. These documents are deemed to have been received by the tenant pursuant to section 90(c) and section 90(a) respectively.

Issues to Be Decided

- Is the 10 day Notice to End Tenancy effective to end this tenancy and entitle the landlord to an Order of Possession?
- Is the landlord entitled to a Monetary Order for unpaid rent due and payable by the tenant to the landlord?

Background and Evidence

The tenant's employment with the landlord terminated, and her rent became \$765.00 per month, due on the 1st day of each month. The rent for February was not paid, and the landlord served the tenant with a 10 Day Notice to End Tenancy on February 10, 2017. No rent was paid and the Notice was not disputed by the tenant. The tenant remains in possession of the premises.

Analysis

Section 26(1) of the Residential Tenancy Act specifically requires that the tenant pay rent when it is due, and section 46(1) permitted the landlord to serve the tenant with a 10 day Notice to End Tenancy when she failed to pay her rent for February. In the absence of the tenant paying the rental arrears, or disputing the notice within the 5 day period set out in the Notice, the tenant is conclusively presumed to have accepted the

end of the tenancy agreement on the effective date of the Notice, by virtue of section 46(5)(a) of the Residential Tenancy Act. As that effective date of the Notice has passed, the landlord has established a right to possession. I therefore issue an Order of Possession effective 48 hours following service upon the tenant.

The tenant is overholding, and I accept that the landlord will suffer a loss of rent for February and March, for a total of \$1,530.00. This sum is awarded to the landlord together with a further sum of \$100.00, representing recovery of the landlord's filing fee. In total, the tenant must pay the sum of \$1,630.00 to the landlord.

Conclusion

Pursuant to Section 55(2)(b) of the Residential Tenancy Act, I issue an Order of Possession effective 48 hours following service upon the tenant. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court for enforcement. The landlord is issued a Monetary Order of \$1,630.00, representing the awarded loss of rent.

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 21, 2017

Residential Tenancy Branch