



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing was convened to a participatory hearing 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; and
2. A Monetary Order for unpaid rent - Section 67.

I accept the Landlord’s evidence that the Tenant was originally served with the application for dispute resolution and notice of hearing by registered mail on March 4, 2017 in accordance with Section 89 of the Act. I also accept that the Landlord received the Interim Decision dated March 8, 2017 on or about March 13, 2017 and that the Tenant was served with the Notice of Reconvened Hearing by posting it on the door on March 16, 2017 as ordered in the Interim Decision. The Tenant did not participate in the conference call hearing. 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 June 1, 2016. Rent of \$800.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$400.00 as a security deposit. The Tenant failed to pay rent for February 2017 and on February 2, 2017 the

Landlord served the Tenant with a 10 day notice to end the tenancy for unpaid rent (the "Notice") by posting the Notice on the door. The Notice has an effective date of February 16, 2017. The Tenant did not dispute the Notice, has not moved out of the unit, has not paid the arrears from February 2017 and has failed to pay March and April 2017 rent.

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 Tenants the Notice and the Tenants did not dispute the Notice. As a result I find that the Landlord is entitled to an order of possession. I make this order of possession effective 2 days after it has been served on the Tenant.

Section 26 of the Act provides 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. Further based on the undisputed evidence of the terms of rent payable and the evidence of unpaid rent, I find that the Landlord is entitled to unpaid rent of \$1,600.00 for the months February and March 2017. As the Landlord has obtained a near immediate an order of possession I also grant the Landlord unpaid rent for the period April 1 to 15, 2017 of \$400.00 and give the Landlord leave to apply for further unpaid rent should the Tenant remain in the unit past this date. Deducting the security deposit plus zero interest of \$400.00 from the total rent of \$2,000.00 leaves \$1,600.00 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 \$400.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,600.00**. 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: April 11, 2017

Residential Tenancy Branch