



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes OPR MNR

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution by Direct Request, received at the Residential Tenancy Branch on June 27, 2017. The matter was subsequently referred to a participatory hearing, held on August 17, 2017 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession for unpaid rent or utilities; and
- a monetary order for unpaid rent or utilities.

The Landlord was represented at the hearing by C.M. and M.G., agents, who provided affirmed testimony. The Tenant did not attend the hearing.

On behalf of the Landlord, the C.M. testified the Application package was served on the Tenant in person on July 27, 2017. I find the Tenant received the Application package on that date.

The Landlord's agents were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to an order of possession for unpaid rent or utilities?
2. Is the Landlord entitled to a monetary order for unpaid rent or utilities?

Background and Evidence

The Landlord provided a copy of the tenancy agreement between the parties into evidence. It confirms the tenancy began on February 10, 2017. Rent in the amount of \$650.00 per month is due on the first day of each month. The Landlord holds a security deposit in the amount of \$325.00.

According to C.M., the Tenant did not pay rent when due on March 1, April 1, May 1, and June 1, 2017. At that time, rent in the amount of \$2,600.00 was outstanding. Accordingly, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated June 5, 2017 (the "10 Day Notice"). C.M. testified the 10 Day Notice was served on the Tenant on that date by posting a copy to the door of the Tenant's rental unit. Further, C.M. testified that, since issuing the 10 Day Notice, partial payments in the amounts of \$750.00 and \$418.00 have been received, but that rent in the amount of \$2,732.00 remains outstanding.

The Tenant did not attend the hearing to dispute the evidence provided by the Landlord.

Analysis

Based on the unchallenged affirmed testimony and documentary evidence, and on a balance of probabilities, I find:

Section 26 of the *Act* confirms that a tenant must pay rent when it is due unless the tenant has a right under the *Act* to deduct all or a portion of rent. When a tenant does not pay rent when due, section 46 of the *Act* permits a landlord to end the tenancy by issuing a notice to end tenancy. A tenant who receives a notice to end tenancy under this section has five days after receipt to either pay rent in full or dispute the notice by filing an application for dispute resolution. When a tenant does not pay rent in full or dispute the notice, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the notice.

In this case, C.M. testified, and I find, that the Tenant has not paid rent when due since March 1, 2017. On June 5, 2017, the Landlord issued the 10 Day Notice by posting a copy to the door of the Tenant's rental unit. Service was witnessed. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received three days later. I find the Tenant is deemed to have received the 10 Day Notice on June 8, 2017. The Tenant had until June 13, 2017, to pay rent in full or file an application for dispute resolution. As the Tenant did neither, I find the Tenant is

conclusively presumed to have accepted the end of the tenancy. The Landlord is entitled to an order of possession, which will be effective two (2) days after it is served on the Tenant.

In addition, although the Tenant has made partial payments, I am satisfied the Landlord has established a claim for outstanding rent in the amount of \$2,732.00. Having been successful, I also find the Landlord is also entitled to recover the \$100.00 filing fee paid to make the Application. Pursuant to section 67 of the *Act*, I grant the Landlord a monetary order in the amount of \$2,507.00, which has been calculated as follows:

| Claim | Amount |
|-------------------------------|-------------------|
| Unpaid rent: | \$2,732.00 |
| Filing fee: | \$100.00 |
| <i>LESS</i> security deposit: | (\$325.00) |
| TOTAL: | \$2,507.00 |

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is granted a monetary order in the amount of \$2,507.00. This order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: August 17, 2017

Residential Tenancy Branch