



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, MNR, FF

Introduction

On September 7, 2017, the Landlord submitted an Application for Dispute Resolution for an order of possession, for a monetary order for unpaid rent, and to recover the cost of the filing fee. The matter was set for a conference call hearing.

The Landlord attended the teleconference hearing; however, the Tenant did not. The Landlord testified that she served the Tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on September 14, 2017. A Canada Post tracking number was provided as evidence of service. I find that the Tenant was duly served with the Notice of Hearing in accordance with sections 89 and 90 of the Residential Tenancy Act (the Act).

The Landlord was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

Issues to be Decided

- Is the Landlord entitled to an order of possession for cause?
- Is the Landlord entitled to a monetary order for unpaid rent?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord testified that the tenancy began on July 1, 2017 as a fixed term tenancy to continue until November 30, 2017. Rent in the amount of \$320.00 is due to be paid to the Landlord by the first day of each month. Rent is based on 30% of the Tenants gross monthly income.

The Landlord issued a 1 Month Notice to End Tenancy for Cause ("the 1 Month Notice") by posting it on the Tenant's door on July 28, 2017. The reason checked off by the Landlord within the Notice is:

- *Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written Notice to do so.*

The 1 Month Notice states the Tenant must move out of the rental unit by August 31, 2017. The Notice informed the Tenant of the right to dispute the Notice within 10 days after receiving it. The Notice informed the Tenants that if an application to dispute the Notice is not filed within 10 days, they are presumed to accept the Notice and must move out of the rental unit on the date set out on page 1 of the Notice.

There is no evidence before me that that the Tenant made an application to dispute the 1 Month Notice.

The Landlord testified that the Tenant is still living in the rental unit.

The Landlord testified that the Tenant only paid a portion of the rent owing for August 2017. The Landlord testified that the Tenant still owes \$186.75 for August 2017.

The Landlord testified that the Tenant has not paid any rent owing under the tenancy agreement for the months of September, October, November, and December 2017.

The Landlord requested to amend the application to include the unpaid rent for December 2017.

The Landlord testified that the Tenant owes a total amount of \$1,466.75 for unpaid rent.

The Landlord is seeking an order of possession for the rental unit.

Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant received the 1 Month Notice and did not apply to dispute the Notice, and is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective two (2) days after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

I grant the Landlords request to amend the application to include the claim for a loss of rent for December 2017. The Tenant is still living in the rental unit and is aware that she is required to pay the rent each month.

I find that the Tenant failed to pay the rent and is responsible to pay the Landlord \$1,466.75 for unpaid rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to pay the Landlord the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I grant the Landlord a monetary order in the amount of \$1,566.75. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Tenant was served with the Notice of Hearing but failed to attend the hearing.

The Tenant did not apply to dispute the 1 Month Notice To End Tenancy For Cause dated July 28, 2017. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice.

The Landlord is granted an order of possession effective two days after service on the Tenant, and I grant the Landlord a monetary order in the amount of \$1,566.75 for unpaid rent and the filing fee.

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: December 06, 2017

Residential Tenancy Branch