



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1058247 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR FF

Introduction

This matter commenced by way of a Direct Request Proceeding and on July 5, 2017, the adjudicator determined this matter should be adjourned to a participator hearing. The interim decision should be read in conjunction with this decision.

At the participatory hearing was scheduled on September 13, 2017, neither party attend the hearing. The landlord's application was dismissed with leave to reapply.

On September 19, 2017, the landlord made an application for review consideration, which was granted on the basis that they were unable to attend at the original hearing because of circumstances that could not be anticipated and were beyond their control. The arbitrator ordered the parties to participate in a new hearing, and the original decision was suspended. The arbitrator at the new hearing may confirm, vary, or set aside the original decision.

This new hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order for unpaid rent.

Although served in accordance with direction of the review consideration decision on October 12, 2017, the tenant did not attend. I find that the tenant has been duly served in accordance with the Act.

The landlord's agent gave testimony and was provided the opportunity to present their 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?

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

Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenant was served with a notice to end tenancy for non-payment of rent on June 4, 2017, by posting to the door. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The landlord's agent testified that the tenant has not paid any rent since April 2017. The agent stated that the tenant is in rent arrears for nine months in the total amount of \$4,500.00. The landlord seeks an order of possession and a monetary order.

Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

The tenant has not paid the outstanding rent, did not apply to dispute the notice, and is therefore conclusively presumed under section 46(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 days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord has established a total monetary claim of **\$4,600.00** comprised of unpaid rent from April 2017 up to and including December 2017, and the \$100.00 fee paid by the landlord for this application.

In light of the above findings, I find it appropriate to set aside the original decision made on September 13, 2017, and this decision and orders shall replace it.

Conclusion

The tenant failed to pay rent and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession and a monetary order for unpaid 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: December 15, 2017

Residential Tenancy Branch