



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lombardy Management Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MND, MNSD, FF

Introduction

This hearing was convened 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;
2. A Monetary Order for unpaid rent - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. I accept the Landlord's evidence that on October 3, 2017 the Tenant was served with the application for dispute resolution and notice of hearing (the “Materials”) by registered mail in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenant is deemed to have received the Materials on October 8, 2017. 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?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

There is no written tenancy agreement. The tenancy started on July 1, 2016. Rent of \$650.00 was originally payable on the first day of each month and as of August 1, 2017 the rent was increased to \$674.00. At the outset of the tenancy the Landlord collected \$325.00 as a security deposit. The Tenant paid the full rent for July 2017. The Tenant owed arrears of \$84.00 for August 2017 and failed to pay rent for September 2017. On September 2, 2017 the Landlord served the Tenant with a 10 day notice to end the tenancy for unpaid rent (the "Notice") by sending the Notice by registered mail to the Tenant. The Tenant did not dispute the Notice, has not paid the arrears or any rent for October, November and December 2017. The Tenant has not moved out of the unit. The Landlord claims unpaid rent to December 15, 2017.

Analysis

Section 55(2) of the Act provides that where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired, a landlord may request an order of possession. Given the undisputed evidence that the Tenant received the Notice, did not dispute the Notice and has not moved out of the unit I find that the Landlord is entitled to an order of possession.

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. As the rental increase did not come into effect until August 1, 2017 and as the Tenant paid the full rent for July 2017 I dismiss the Landlord's claim for unpaid July 2017 rent. Based on the undisputed evidence of further unpaid rent I find that the Landlord has substantiated an entitlement to unpaid rent of \$2,443.00 calculated as follows:

- \$84.00 for August 2017;
- \$674.00 for September 2017;
- \$674.00 for October 2017;

- \$674.00 for November 2017; and
- \$337.00 for December 1 to 15, 2017.

As the Landlord's application had merit I find that the Landlord is entitled to recovery of the \$100.00 filing fee for a total entitlement of \$2,543.00. Deducting the security deposit plus zero interest of \$325.00 leaves \$2,218.00 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 security **deposit** and interest of \$325.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$2,218.00**. 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: December 12, 2017

Residential Tenancy Branch