



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Preliminary matter

This application was originally made under the Direct Request process. That process is Ex Parte and it is made by written submissions only. The application must be complete and clear in order to have a decision made. In this case the Direct Request process found that the amount of unpaid rent was not clear therefore the application was moved to a participatory hearing. That hearing is as of today's date.

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on April 5, 2018. The Landlord provided a postal receipt and tracking information in support of the service of documents. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

Background and Evidence

This tenancy started on February 11, 2018 as a month to month tenancy. Rent is \$900.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit in the amount of \$450.00 as the start of the tenancy

The Landlord said that she made a verbal agreement to end the tenancy with the Tenant for March 10, 2018 and the Tenant could pay a reduced amount of rent in the amount of \$250.00 for the March 2018 rent. The Landlord continued to say the Tenant did not move her things out of the rental unit and the Landlord has been unable to contact the Tenant. The Landlord continued to say the Tenant paid \$228.00 on February 24, 2018 for the March, 2018 rent. As the Tenant did not pay the agreed rent due for March 2018 the Landlord posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated March 6, 2018 on the door of the Tenants' rental unit. The Landlord said the Tenant has unpaid rent of \$672.00 for March 2018 and \$900.00 for April 2018 as the Tenant has not moved her things out of the rental unit.

The Landlord further requested an Order of Possession to end the tenancy as the Tenant has abandoned the unit and has not paid the rent.

Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a tenant must pay the overdue rent or apply for dispute resolution. If the tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy 3 days after it was posted, or on March 9, 2018. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than March 14, 2018.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenants.

I also find that the Landlord is entitled to recover unpaid rent for March 2018 in the amount of \$672.00 and for unpaid rent for April 2018 in the amount of \$900.00. The total unpaid rent is \$1,572.00.

As the Landlord has been successful in this matter I order the Landlord to retain the Tenant's security deposit of \$450.00 in partial payment of the unpaid rent and the Landlord will receive a monetary order for the balance of unpaid rent in the amount of \$1,122.00.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$1,122.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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 24, 2018

Residential Tenancy Branch