



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNRL-S, FFL

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent or Utilities, a monetary Order for unpaid rent or utilities, to retain all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that on May 08, 2018 the Application for Dispute Resolution, the Notice of Hearing and documents the Landlord submitted with the Application for Dispute Resolution were personally served to the Tenant. In the absence of evidence to the contrary I find that these documents have been served to the Tenant in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant did not appear at the hearing. As the documents were properly served to the Tenant, the hearing proceeded in his absence.

Preliminary Matter

The Landlord applied to amend the Application for Dispute Resolution to include unpaid rent from May, June, and July of 2018. I find that it was reasonable for the Tenant to conclude that the Landlord is seeking to recover all of the rent that is currently due, including unpaid rent that has accrued since the Application for Dispute Resolution was filed. I therefore grant the application to amend the monetary claim to include all rent that is currently due.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to monetary Order for unpaid rent?

Does the Landlord have the right to retain the security deposit?

Background and Evidence

The Landlord stated that:

- this tenancy began on October 30, 2017;
- the Tenant was required to pay monthly rent of \$750.00 by the first day of each month;
- the Tenant is still occupying the rental unit;
- the Tenant paid a security deposit of \$150.00;
- the Tenant still owes \$50.00 in rent from March of 2018; \$50.00 in rent from April of 2018; \$50.00 in rent from May of 2018; and \$50.00 in rent from June of 2018;
- the Tenant has paid no rent for July of 2018; and
- a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of April 27, 2018, was posted on the door of the rental unit on April 17, 2018.

Analysis

On the basis of the undisputed evidence I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$750.00 by the first day of each month; that the Tenant owes rent of \$200.00 for the period between March 01, 2018 and June 31, 2018; and that the Tenant has not paid rent for July of 2018. As the Tenant is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$200.00 in outstanding rent for the period ending June 31, 2018.

As the Tenant is still occupying the rental unit I find that the Tenant must pay \$72.57 in rent for the period between July 01, 2018 and July 03, 2018, at a per diem rate of \$24.19. I am unable to order that rent be paid for any period after July 03, 2018, as it is entirely possible that the Tenant will vacate the rental unit today.

Section 46(1) of the *Act* entitles landlords to end a tenancy within ten days if rent is not paid when it is due by providing proper written notice. On the basis of the undisputed evidence I find that the Ten Day Notice to End Tenancy, served pursuant to section 46 of the *Act*, was posted at the rental unit on April 17, 2018.

Section 90 of the *Act* stipulates that a document that is posted on a door is deemed to be received on the third day after it is posted. I therefore find that the Tenant is deemed to have received the Notice to End Tenancy on April 20, 2018.

Section 46(1) of the *Act* stipulates that a Ten Day Notice to End Tenancy is effective ten days after the date that the tenant receives the Notice. As the Tenant is deemed to have received this Notice on April 20, 2018 I find that the earliest effective date of the Notice was April 30, 2018.

Section 53 of the *Act* stipulates that if the effective date stated in a Notice is earlier than the earliest date permitted under the legislation, the effective date is deemed to be the earliest date

that complies with the legislation. Therefore, I find that the effective date of this Ten Day Notice to End Tenancy was April 30, 2018.

Section 46 of the Act stipulates that a Tenant has five days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy has ended. On this basis I grant the landlord an Order of Possession.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$372.57, which includes \$222.57 in unpaid rent and \$100.00 in compensation for the fee paid to file this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to keep the Tenant's security deposit of \$150.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$122.57. In the event the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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 *Act*.

Dated: July 03, 2018

Residential Tenancy Branch