



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Gurdev Holdings Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNSD, OPR, 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. A Monetary Order for unpaid rent - Section 67;
2. An Order to retain the security deposit - Section 38;
3. An Order of Possession - Section 55; and
4. 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 the Tenant was served with the application for dispute resolution and notice of hearing (the “Materials”) in person on September 15, 2018 in accordance with Section 89 of the Act. 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?

Is the Landlord entitled to retain the security deposit?

Background and Evidence

There is no written tenancy agreement. The Landlord purchased the unit in February 2018. The Landlord does not know when the tenancy started. The Landlord is holding \$250.00 as a security deposit but does not know when it was collected. Rent of \$500.00 is payable on the first day of each month. The Tenant failed to pay rent for August 2018 and on August 15, 2018 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the rental unit door. The Tenant did not dispute the Notice, did not pay the outstanding rent indicated on the Notice and has not paid rent for September or October 2018. The Landlord claims unpaid rent of \$1,500.00.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent the tenant must, within five days, either pay the full amount of the arrears indicated on the notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. 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, did not pay the outstanding rent indicated on 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. Based on the Landlord's undisputed evidence of unpaid rent and the terms of the tenancy, I find that the Landlord has substantiated an entitlement to **\$1,500.00** in unpaid rent for August, September and October 2018. As the Landlord's claims have been successful I find that the Landlord is also entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$1,600.00**.

As the Landlord has not provided any evidence of when the security deposit was collected, I am unable to determine whether there is any interest due to the Tenant on the deposit. I therefore dismiss the claim to retain the security deposit with leave to reapply.

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 grant the Landlord an order under Section 67 of the Act for **\$1,600.00**. 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 Act.

Dated: October 26, 2018

Residential Tenancy Branch