



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 in person on September 14, 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 retain the security deposit?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The current Landlord took over the rental unit in February 2018. There is no written tenancy agreement however the Landlord was informed by the previous landlord that the tenancy started on November 1, 2017. Rent of \$500.00 is payable on the first day of each month. The Landlord is holding a security deposit of \$250.00.

The Tenant owed rental arrears and 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"). The Tenant did not pay the outstanding rent indicated on the Notice, did not dispute the Notice, has not moved out of the unit, and has not paid rent for September and October 2018. The Landlord claim unpaid rent of \$2,000.00.

Analysis

Section 46 of the Act provides that a tenant that has received a 10 day notice for unpaid rent has 10 days to dispute the notice. 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. Although there is no written tenancy agreement I accept that an oral tenancy agreement exists. Based on the undisputed evidence of the terms of rent payable and the evidence of unpaid rent, I find that the Landlord has substantiated unpaid rent of **\$2,000.00** to and including October 2018.

As the Landlord has been successful with its application I find that the Landlord is also entitled to recovery of the \$100.00 filing fee for a total entitlement of **\$2,100.00**.

Deducting the security deposit plus zero interest of **\$250.00** leaves **\$1,850.00** 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 **deposit** and interest of \$250.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,850.00**. 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 29, 2018

Residential Tenancy Branch