



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / retention of all or part of the security deposit / and recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony. Despite service of the application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail, the tenant did not appear. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "unclaimed by recipient."

Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on August 1, 2011. Monthly rent of \$950.00 is due and payable in advance on the first day of each month, and a security deposit of \$475.00 was collected.

During the course of the tenancy the landlord issued several 10 day notices to end tenancy for unpaid rent. The most recently issued 10 day notice is dated July 25, 2012, and it was served by way of posting on the tenant's door on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is August 4, 2012. Subsequently, the tenant has made no further payment toward rent and she continues to reside in the unit.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated July 25, 2012. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Accordingly, I find that the landlord has established entitlement to an order of possession.

As for the monetary order, I find that the landlord has established entitlement to a claim of \$10,997.55, which is calculated as follows:

\$1,900.00: unpaid rent (NSF) for the 2 month period of December 2011 & January 2012 (2 x \$950.00)

\$5,700.00: unpaid rent for the 6 month period from February to July 2012 (6 x \$950.00)

\$2,972.55: unpaid rent for the 3 month period from August to October 2012 (3 x \$990.85)

NOTE: The 4.3% allowable increase in 2012 of \$40.85 (\$950.00 x 4.3%) is not permitted to be rounded up to \$41.00 as shown in the landlord's application. Accordingly, monthly rent effective August 1, 2012 is \$990.85, and not \$991.00.

\$50.00: fees assessed for 2 NSF cheques (2 x \$25.00)

\$275.00: fees assessed for 11 late payments of rent (11 x \$25.00)

\$100.00: filing fee.

I order that the landlord retain the security deposit of \$475.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$10,522.55 (\$10,997.55 - \$475.00).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This order must be served on the tenant.

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.

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$10,522.55**. This order may be served on the tenant, 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: October 24, 2012.

Residential Tenancy Branch