



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wall Street Holdings
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing concerns 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. Both parties attended and / or were represented and gave affirmed testimony.

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, a copy of which is not in evidence, the tenancy began on October 1, 2006. Rent is due and payable in advance on the first day of each month. According to the landlord's application, monthly rent is currently \$755.00. A security deposit of \$350.00 was collected on or about September 30, 2006.

Arising from rent which remained overdue in the amount of \$200.00 on January 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated January 18, 2013. The notice was served by posting on the tenant's door on January 18, 2013. A copy of the notice was submitted in evidence. The landlord's agent testified that the \$200.00 at issue was withheld by the tenant from rent due for October 2012, as a result of a dispute between the parties in relation to the water supply. Apparently the parties did not reach any agreement between them related to a reduction or withholding of rent, and there is no application before me from the tenant in which he seeks permission to withhold any portion of rent for any particular reason. The landlord's agent testified that the tenant's rent has otherwise presently been paid in full to the end of February 2013.

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 testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated January 18, 2013. 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 under section 46(5) of the Act 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 compensation, I find that the landlord has established a claim of \$250.00, which is comprised of \$200.00 in unpaid rent for October 2012 and the \$50.00 filing fee.

I order the landlord to retain **\$250.00** from the tenant's security deposit, and I order the landlord to repay the balance of the security deposit to the tenant in the amount of \$100.00, plus interest accrued on the security deposit of \$11.04 (total: **\$111.04**).

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.

I order that the landlord retain **\$250.00** from the security deposit, and I order the landlord to repay the balance plus interest totalling **\$111.04** (\$100.00 + \$11.04).

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: February 25, 2013

Residential Tenancy Branch

