



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, OPB, MNR, MNSD, FF, O

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession, a monetary Order for unpaid rent, to retain all or part of the security deposit, to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution, and "other".

The male Landlord stated that the Application for Dispute Resolution, the Notice of Hearing, and documents the Landlord wishes to rely upon as evidence were sent to each Tenant at the rental unit, via registered mail, on March 01, 2013. The Landlord submitted Canada Post documentation that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenants did not appear at the hearing.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession; to a monetary Order for unpaid rent/lost revenue; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 55, 67, and 72 of the *Residential Tenancy Act (Act)*?

Background and Evidence

The male Landlord stated that this tenancy began on February 01, 2012; that the tenancy was for a fixed term that ended on January 31, 2013; that the tenancy agreement required the Tenant to vacate the rental unit at the end of the fixed term of the agreement; that the tenancy agreement required the Tenant to pay monthly rent of \$1,400.00 by the first day of each month; and that the Tenant paid a security deposit of \$700.00. The Landlord submitted a copy of a tenancy agreement that corroborates this testimony.

The male Landlord stated that the Tenant has not paid rent for any period after November 30, 2012 and that the Tenant is still occupying the rental unit.

The male Landlord stated that on February 12, 2013 a friend personally served a Ten Day Notice to End Tenancy for Unpaid Rent, which had a declared effective date of February 22, 2013, to an individual who is not named on the tenancy agreement.

Analysis

Based on the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord which required the Tenant to pay monthly rent of \$1,400.00 by the first day of each month and which required the Tenant to vacate the rental unit at the end of the fixed term of the tenancy, which was January 31, 2013. As the Tenant has not vacated the rental unit in accordance with the tenancy agreement, I find that the Landlord is entitled to an Order of Possession, pursuant to section 55(2)(c) of the *Act*.

As this tenancy ended when the fixed term of the tenancy agreement expired on January 31, 2013, pursuant to section 44(1)(b) of the *Act*, I find there is no need to determine whether the tenancy was ended by the Ten Day Notice to End Tenancy or whether the Landlord is entitled to an Order of Possession on the basis of that Notice.

Based on the undisputed evidence, I find that the Tenant has not paid rent for any period after November 30, 2012. As the Tenant is required to pay rent when it is due, pursuant to section 26(1) of the *Act*, and the Tenant did not pay the rent when it was due on December 01, 2012 or January 01, 2013, I find that the Tenant must pay \$2,800.00 in outstanding rent to the Landlord.

As the Tenant did not vacate the rental unit on January 31, 2013, I find that the Tenant is obligated to pay rent, on a per diem basis, for the time the Tenant remained in possession of the rental unit. I therefore find that the Tenant must pay \$1,400.00 in rent for February. I also find that the Tenant must compensate the Landlord for the 21 days in March that the Tenant remained in possession of the rental unit, at a daily rate of \$45.16, which equates to \$948.36.

I find that the continued occupancy of the rental unit made it difficult, if not impossible, for the Landlord to find new tenants for the remainder of March. I therefore find that the Tenant must compensate the Landlord for the loss of revenue the Landlord will, or is likely to experience between March 22, 2013 and March 31, 2013, which is \$451.64.

I find that the Landlord has proven the claim in full and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of 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.

I find that the Landlord has established a monetary claim, in the amount of \$5,650.00, which is comprised of \$5,600.00 in unpaid rent/lost revenue and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. I authorize the Landlord to retain the Tenant's security deposit, in the amount of \$700.00, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$4,950.00. In the event that 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 *Residential Tenancy Act*.

Dated: March 21, 2013

Residential Tenancy Branch

