



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Li-Car Management Group
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent and utilities pursuant to section 55;
- a monetary order for unpaid rent and utilities, for damage to the rental unit, and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 2:15 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 2:00 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. Landlord Da Se testified that she handed the tenant the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) at 1:50 p.m. on January 3, 2014. Landlord Do St testified that she sent the tenant a copy of the landlord's dispute resolution hearing package by registered mail on January 17, 2014. She provided a signed statement and a copy of the Canada Post Tracking Number to confirm this registered mailing. I am satisfied that the landlord served the tenant with the 10 Day Notice as claimed by the landlord on January 3, 2014. In accordance with sections 89 and 90 of the *Act*, the dispute resolution hearing package was deemed served to the tenant on January 22, 2014, the fifth day after its registered mailing.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent and utilities? Is the landlord entitled to a monetary award for unpaid rent, utilities and losses arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security

deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This periodic tenancy commenced on August 21, 2013. Monthly rent currently totals \$940.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$450.00 security deposit paid on August 20, 2013.

The landlord testified that no payments have been made by the tenant since the 10 Day Notice was issued. The landlord's application for a monetary award was for unpaid rent of \$940.00 for January 2014, and \$940.00 in anticipated loss of rent for each of February and March 2014. Due to the date of this hearing, the landlord withdrew the application for loss of rent for March 2014.

Analysis

The tenant failed to pay the January 2014 rent in full within five days of receiving the 10 Day Notice. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of her tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by January 13, 2014. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the landlord's undisputed sworn testimony and written evidence, I find that the landlord has established entitlement to a monetary award of \$940.00 for unpaid rent for each of January and February 2014.

I allow the landlord to retain the tenant's security deposit plus applicable interest in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period. I also allow the landlord to recover the \$50.00 filing fee from the tenant.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent and the filing fee and to retain the tenant's security deposit:

Item	Amount
Unpaid January 2014 Rent	\$940.00
Unpaid February 2014 Rent	940.00
Less Security Deposit	-450.00
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$1,480.00

The landlord is provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: February 13, 2014

Residential Tenancy Branch

