



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WALL FINANCIAL CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) by the landlord for an order of possession for unpaid rent, for a monetary order for unpaid rent, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of the filing fee.

An agent for the landlord (the “agent”) and the tenant appeared at the teleconference hearing and gave affirmed testimony. During the hearing the parties were given the opportunity to provide their evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the matters before me.

The tenant denied receiving a copy of the Notice of a Dispute Resolution Hearing (the “Notice of Hearing”) and the landlord’s Application for Dispute Resolution (the “Application”). The landlord testified that the tenant was served at the rental unit address by registered mail with a package that contained the Application, the Notice of Hearing, and the landlord’s evidence. The landlord submitted a copy of the registered mail tracking number in evidence and stated that the registered mail was sent on February 21, 2014. Section 90 of the Act indicates that documents served by registered mail are deemed served five days after they are mailed. I accept that the tenant was deemed served as of February 26, 2014. As a result, the hearing proceeded with consideration of the landlord’s Application.

Issues to be Decided

- Is the landlord entitled to an order of possession under the Act?
- Is the landlord entitled to a monetary order under the Act, and if so, in what amount?

Background and Evidence

The parties agreed that a fixed term tenancy began on June 6, 2013 and reverted to a month to month tenancy after November 30, 2013. Monthly rent in the amount of \$835.00 was due on the first day of each month. A security deposit of \$417.50 and a pet damage deposit of \$200.00 was paid by tenant at the start of the tenancy.

The tenant confirmed that she was served with a 10 Day Notice for Unpaid Rent or Utilities, (the "10 Day Notice") dated February 2, 2014 on February 2, 2014. The 10 Day Notice stated that \$835.00 was owed as of February 1, 2014 and had an effective vacancy date of February 15, 2014. The landlord stated that the tenant failed to pay any rent for the months of February, March or April of 2014, which the tenant confirmed. The tenant confirmed that she did not dispute the 10 Day Notice or pay any rent since being served with the 10 Day Notice.

The landlord's monetary claim is for \$2,595.00 comprised of the following:

1. Unpaid February 2014 rent	\$835.00
2. Unpaid March 2014 rent	\$835.00
3. Unpaid April 2014 rent	\$835.00
4. Late fee for February 2014	\$20.00
5. Late fee for March 2014	\$20.00
6. Late fee for April 2014	\$20.00
7. Parking fee for February 2014	\$10.00
8. Parking fee for March 2014	\$10.00
9. Parking fee for April 2014	\$10.00
TOTAL	\$2,595.00

The tenant testified that she agreed with the amounts being claimed by the landlord as described above. The tenant did not dispute that she owes \$2,595.00 as described above. The documents submitted in evidence support the amount of monthly rent, the amount of the late fees, and the amount of the parking fees.

Analysis

Based on the documentary evidence and the undisputed oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Order of Possession – As the tenant confirmed she failed to pay rent for February, March and April of 2014, I find that the tenant failed to pay the rent for those months, or dispute the 10 Day Notice within 5 days after receiving the 10 Day Notice on February 2, 2014. The tenant is conclusively presumed pursuant to section 46 of the *Act*, to have accepted that the tenancy ended on the effective date of the 10 Day Notice, which was February 15, 2014. Accordingly, **I grant** the landlord an order of possession effective **two (2) days** after service on the tenant.

Claim for unpaid rent, late fees and unpaid parking fees – The tenant did not dispute the landlord's monetary claim and confirmed that she owed \$2,595.00 as claimed by the landlord. Pursuant to section 26 of the *Act*, a tenant must pay rent when it is due in accordance with the tenancy agreement. Based on the above, I find that the tenant has failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month. The tenant continues to occupy the rental unit. The landlord will not regain possession of the unit until after service of the order of possession. I find the landlord has met the burden of proof and **I find** the landlord has established a monetary claim of **\$2,595.00** comprised of \$835.00 in unpaid rent for the months of February, March and April of 2014, plus a \$20.00 late fee for each of those three months, plus \$10.00 in unpaid parking for each of those three months.

As the landlord has succeeded with their application, **I grant** the landlord the recovery of the **\$50.00** filing fee.

Monetary Order – **I grant** the landlord a monetary order pursuant to section 67 of the *Act* in the amount of **\$2,645.00** comprised unpaid rent, late fees, unpaid parking fees, and the filing fee. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The landlord has proven their claim and is, therefore, entitled to an order of possession effective two (2) days after service upon the tenant. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

The landlord has established a total monetary claim of \$2,645.00. The landlord has been granted a monetary order under section 67 in the amount of \$2,645.00. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: April 11, 2014

Residential Tenancy Branch

