



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This is an application filed by the landlord for an order of possession and a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee.

The landlord attended the hearing by conference call and gave undisputed evidence. The tenant did not attend or submit any documentary evidence. The landlord states that the tenant was served with the notice of hearing package and the submitted documentary evidence by Canada Post Registered Mail on April 25, 2014. The landlord's agent has provided in his direct testimony the Canada Post Customer Receipt Tracking number as confirmation. The landlord states that an online search shows that notices of attempted service were left and that the package was returned to the landlord as unclaimed by the tenant. The landlord has confirmed that the tenant still occupies the rental unit and has not paid any rent.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?
Is the landlord entitled to a monetary order?
Is the landlord entitled to retain the security deposit?

Background and Evidence

This tenancy began on June 1, 2013 on a fixed term tenancy ending on 31, 2014 and then thereafter on a month to month basis as shown by the submitted copy of the

signed tenancy agreement. The monthly rent is \$850.00 payable on the 1st of each month and a security deposit of \$425.00 was paid on May 1, 2013.

The landlord states that the tenant was served with a 10 day notice to end tenancy issued for unpaid rent dated April 2, 2014. The notice states that the tenant failed to pay rent of \$908.00 that was due on April 1, 2014. The notice also displays an effective end of tenancy date of April 15, 2014. The landlord states that the tenant was served with the notice on April 2, 2014 by posting it to the rental unit door.

The landlord also states that the tenant made partial late rent payments of \$1,800.00 on May 2, 2014 and again on May 13, 2014 of \$633.00. The landlord states that receipt for use and occupancy only were issued to the tenant. The landlord states that the tenant's May 13, 2014 payment of \$633.00 was returned as an NSF cheque. The landlord stated that the current rent arrears total, \$1,476.70 for unpaid rent for April, May and June and NSF bank charges totalling, \$50.00, totalling, \$1,526.70.

The landlord seeks an order of possession to end the tenancy and a monetary order for \$1,526.70.

Analysis

I accept the undisputed evidence of the landlord and find that the tenant has been properly served with the 10 day notice to end tenancy issued for unpaid rent. The tenant failed to pay the rent within the allowed time frame nor did the tenant make an application to dispute the notice. The tenant is conclusively presumed to have accepted that the tenancy was at an end. The landlord is granted an order of possession. The order of possession must be served upon 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.

As for the monetary claim, I find based upon the undisputed evidence of the landlord that a monetary claim of \$1,526.70 has been established. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$425.00 security deposit in partial satisfaction of the claim and I grant a monetary order under section 67 of the Act for \$1,151.70. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary order for \$1,151.70.
The landlord may retain the security deposit.

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: June 12, 2014

Residential Tenancy Branch

