



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, FF

Introduction

This is an application filed by the landlord for an order of possession and a monetary order for unpaid rent and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. The tenant confirmed receipt of the notice of hearing package and the landlord's documentary evidence. The tenant confirmed that no documentary evidence was filed in response. The landlord states that the tenant was served with the notice of hearing package and the submitted documentary evidence on January 13, 2015 by Canada Post Registered Mail and has submitted a copy of the Customer Receipt Tracking number as confirmation.

Issue(s) to be Decided

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

Background and Evidence

This tenancy began on February 26, 2014 on a month to month basis as shown by the submitted copy of the signed tenancy agreement dated February 26, 2014. The monthly rent is \$875.00 payable on the 1st of each month and a security deposit of \$437.50 was paid on February 20, 2014.

The landlord states that the tenant was served with a 10 day notice to end tenancy issued for unpaid rent dated December 18, 2014 by posting it to the rental unit door on December 18, 2014. The notice states that the tenant failed to pay rent of \$1,400.00 that was due on December 1, 2014 and an effective end of tenancy date of December 31, 2014.

The landlord states that the tenant has failed to pay all of the rent and is still occupying the rental unit. The landlord states that the tenant made a partial payment of \$600.00 on December 31, 2014 leaving an outstanding balance of \$1,675.00. The landlord states that a receipt was issued to the tenant on December 31, 2014 for use and occupancy only.

The tenant confirmed in her direct testimony that she was in rent arrears and that two payments were made for one payment of \$600.00 in December and second for \$800.00 in January.

The landlord disputes the tenant's claim that a second payment was made and only has a record for the December 31, 2014 payment of \$600.00.

The landlord seeks a monetary claim for \$2,550.00 which consists of \$800.00 for December 2014 arrears, \$875.00 for January unpaid rent and lost rental income of \$875.00 for February 2015 as the landlord does not know when the tenant will vacate the rental.

Analysis

I accept the undisputed evidence of both parties and find that the tenant was properly served with the 10 day notice to end tenancy issued for unpaid rent dated December 18, 2014. The tenant confirmed service in her direct testimony. The tenant confirmed that she was in rent arrears as claimed by the landlord. The tenant stated that she made only partial payment of the arrears. The tenant is conclusively presumed to have accepted that the tenancy was at an end as she did not pay the amount owed nor did the tenant dispute the notice.

The landlord is granted an order of possession. The tenant must be served with the order of possession. 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 prefer the evidence of the landlord over that of the tenant in regards to the tenant's claims that a second rent payment was made. The tenant has provided no supporting evidence. I find that the landlord has established a claim for rent arrears totalling, \$1,675.00 as claimed based upon the tenant's direct testimony confirming arrears. If the tenant does have a receipt issued by the landlord for this additional late payment, the tenant is free to produce it to the landlord so that the landlord may amend their claim.

As for the landlord's claim for lost rental income of \$875.00 for February 2015, I find that as the tenant is still occupying the rental unit and based upon this hearing date of January 30, 2015 find that the landlord would be unable to re-rent the unit for the month of February 2015. The landlord is also entitled to the claim of lost rental income of \$875.00 for February 2015.

The landlord has established a total monetary claim of \$2,550.00. The landlord is also entitled to recovery of the \$50.00 filing fee. The landlord is granted a monetary order for \$2,600.00. This order may be filed in the Small Claims Division of the Provincial Court of British Columbia.

Conclusion

The landlord is granted an order of possession and a monetary order for \$2,600.00.

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: January 30, 2015

Residential Tenancy Branch

