



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Ladha Enterprises Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on December 25, 2013. Rent of \$800.00 is payable in advance on the first day of each month. No security deposit was collected from the Tenant. The Tenant failed to pay rent for February and March 2016 and on March 2, 2016 the Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent (the “Notice”) by posting the Notice on the door. The Tenant has not made an application for

dispute resolution, has not paid the arrears or the April 2016 rent and has not moved out of the unit. The Landlord claims unpaid rent for February, March and April 2016.

The Landlord provided a copy of both the tenancy agreement and park regulations. The park regulations provides for late rent fees. The tenancy agreement does not include any provision for late fees and does not include the park regulations as an addendum to the tenancy agreement.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent (the "Notice") the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Section 55 of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the Notice by making an application for dispute resolution and the time for making that application has expired.

Based on the Landlord's evidence I find that the Tenant was given a valid Notice. The Tenant has not filed an application to dispute the Notice and has not paid the outstanding rent. Given these facts, I find that the Landlord is entitled to an **Order of Possession**. I also find that the Landlord has established a monetary claim for **\$2,400.00** in unpaid rent. As the tenancy agreement does not provide for late fees and as the park regulations do not form a part of the tenancy agreement, I find that the Landlord is not entitled to late rent fees and I dismiss this claim. The Landlord is entitled to recovery of the \$100.00 filing fee for a total monetary amount of **\$2,500.00**.

Conclusion

I **grant** an Order of Possession to the Landlord. The Tenant must be served with this **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 **grant** the Landlord an order under Section 67 of the Act for **\$2,500.00**. If necessary, this order may be filed in the 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: April 28, 2016

Residential Tenancy Branch