



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR MNR MNSD 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 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;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The tenant confirmed service of the application for dispute resolution, including the notice of hearing and evidence on file.

Issues

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

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

A written tenancy agreement was entered into and signed by the parties on August 6, 2013. A copy of the written agreement was provided on file. The tenancy began on September 1, 2013 with a monthly rent of \$850.00 payable on the 1st day of each month. The rent was increased to \$890.41 as of May 13, 2015. The tenant paid a security deposit of \$425.00 at the start of the tenancy which the landlord continues to hold.

The landlord testified that as of the hearing date, the amount of rent, parking, and late fees outstanding was \$40.41 after deducting payments made by the tenant on May 25, 2016 and June 16, 2016.

The tenant agreed to the outstanding amount as claimed by the landlord.

The landlord testified that on May 2, 2016 he served the tenant with the 10 day Notice to End Tenancy for unpaid rent or utilities by posting a copy to the door of the rental premises. The tenant acknowledged service of the 10 day Notice and that he did not pay the full amount of the arrears indicated, within five days, of receiving the Notice.

Analysis

I am satisfied that the tenant was deemed served with the 10 day Notice to End Tenancy on May 5, 2015, three days after its posting, pursuant to sections 88 & 90 of the Act.

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent 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, as in the present case, 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, May 15, 2016.

I find that the landlord is entitled to an Order of Possession effective **1:00 p.m. on July 31, 2016** as agreed to by the parties.

I accept the landlord's claim for outstanding rent, parking and late fees of \$40.41.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$140.41.

The landlord continues to hold a security deposit of \$425.00. I allow the landlord to retain the amount of \$140.41 from the security deposit in full satisfaction of the monetary award pursuant to section 38 of the Act.

Conclusion

I grant an Order of Possession to the landlord effective **1:00 p.m. on July 31, 2016**. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 20, 2016

Residential Tenancy Branch