



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding K&G CLRand
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR OPR

Introduction

Pursuant to section 58 of the *Residential Tenancy Act*. (the *Act*), I was designated to hear this matter. This hearing dealt with the landlord's application for:

- an Order of Possession pursuant to section 55 of the *Act* for unpaid rent or utilities; and
- a Monetary Order pursuant to section 67 of the *Act* for unpaid rent, and for money owed for damage or loss under the *Act*.

The building manager appeared at the hearing on behalf of the landlord while the tenant, did not. The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Testimony was given by the building manager that a 10 Day Notice to End Tenancy for Unpaid Rent ("10 Day Notice") was posted on the tenant's front door on February 6, 2017. I find that in accordance with sections 88 and 90 of the *Act* the 10 Day Notice was deemed served to the tenant on February 9, 2017.

The building manager testified that the tenant was served with the Landlord's Application for Dispute Resolution hearing package ("dispute resolution hearing package") by way of posting it on the rental unit door on February 21, 2017. In accordance with section 89 and 90 of the *Act*, I find that the tenant was served with the landlord's dispute resolution hearing package on February 24, 2017.

At the outset of the hearing the building manager requested that the landlord's application for dispute resolution be amended to reflect unpaid rent of \$900.00 for the month of March 2017. Pursuant to section 64(3)(c), I amend the landlord's application to account for this unpaid rent.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

The building manager provided testimony that she had been hired by the building's owner to manage his various commercial ventures. She stated that the owner's documentation related to his rental units were "a mess" and that it was difficult for her to determine when this tenancy began or whether or not a security deposit was held by the landlord.

She explained that rent was \$900.00 per month and that rent was due on the first of the month.

The landlord has applied for an Order of Possession and a Monetary Order for non-payment of rent for the months of February and March 2017. The building manager explained that the tenant paid \$900.00 in outstanding rent for February 2017 on March 6, 2017. These funds were not accepted as rent and a receipt was issued to the tenant stating that the money was for *use and occupancy only*. The landlord is seeking a Money Order of \$900.00 to recover monies owed from non-payment of rent.

Analysis – Order of Possession

The tenant failed to pay the unpaid rent within five days of receiving the 10 Day Notice to End Tenancy. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of her tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by February 16, 2017. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant.

Analysis – Monetary Order

The building manager provided testimony and written evidence was submitted with the hearing package demonstrating that rent for February 2017 was paid 6 weeks late and accepted for *use and occupancy only*, while rent for March 2017 remained unpaid.

Pursuant to section 67 of the *Act* and based on the landlord's uncontested evidence, I find that the landlord is entitled to a Monetary Order of \$900.00 for unpaid March rent.

Conclusion

I am granting the landlord an Order of Possession to be effective two days after notice is served to the tenant. If the tenant does not vacate the rental unit within the two days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

I am making a Monetary Order of \$900.00. The landlord is provided with formal Orders in the above terms. Should the tenant fail to comply with these Orders, these Orders may be filed and enforced as Orders of the Provincial 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: March 21, 2017

Residential Tenancy Branch