



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Dispute Codes: OPR, MNR, FF

Introduction

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the address noted on the Application, on September 08, 2008. A tracking number was provided. The Canada Post website shows the mail was unclaimed. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 55, 67, and 72 of the *Act*.

Background and Evidence

The Agent for the Landlord stated that the tenancy agreement requires the Tenant to pay monthly rent of \$955.00.

The Agent for the Landlord stated that a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of July 18, 2008, was sent by registered mail to the Tenant on July 31, 2008. The Notice indicated that the Notice would be automatically cancelled if the Landlord received the outstanding rent within five days after the Tenant is assumed to have received the Notice. The Notice also indicated that the Tenant is presumed to have accepted that the tenancy is ending and that the Tenant must move out of the rental by the date set out in the Notice unless the Tenant files an Application for Dispute Resolution within five days.

The Agent for the Landlord stated that the Tenant still owes \$955.00 in rent from May of 2008, \$955.00 in rent from June of 2008, \$955.00 in rent from July of 2008, and \$955.00 in rent from August of 2008. The Agent stated that the Tenant owes the Landlord \$885.00 in addition to the above outstanding rent, but she was unable to state precisely why this money is owed to the Landlord.

Analysis

Section 46 of the Act stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the Act, I find that the Tenant accepted that the tenancy has ended. On this basis I will grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant.

In the absence of evidence to the contrary, I find that the Tenant has not paid rent in the amount of \$3,980.00 for May, June, July and August of 2008, and that this amount is owed to the Landlord. As the Landlord has not established why the Tenant owes an additional \$885.00, I am dismissing the Landlord's application for a monetary Order in this amount, with leave to reapply on that specific issue.

I find that the Landlords application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

The Landlord has been granted an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$4,030.00, which is comprised on \$3,980.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for the amount of \$4,030.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Date of Decision: September 30, 2008
