



Dispute Resolution Services

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

Decision

Dispute Codes:

ET, OPR, MNR, FF

Introduction

This hearing was scheduled to deal with an application made by the Landlord for an early end to tenancy, an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent and to recover the filing fee from the Tenant for the cost of filing this Application for Dispute Resolution.

The Landlord stated that after several attempts to personally serve the Tenant with copies of the Application for Dispute Resolution and Notice of Hearing, she was finally able to personally serve the documents on the Tenant on October 14, 2008. 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 end this tenancy early, 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 Landlord stated that the Tenant is required to pay monthly rent of \$600.00.

The Landlord stated that a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of October 12, 2008, was personally served on the Tenant on October 03, 2008. The Notice indicated that the Notice would be automatically cancelled if the Landlord received \$400.00 within five days after the Tenant is assumed to have received the Notice.

The Landlord stated that the Tenant paid \$375.00 on October 09, 2008. She submitted a receipt, which indicates \$375.00 was paid on October 07, 2008. The Landlord stated that she incorrectly dated the receipt, and she is certain the Tenant paid this money on October 09, 2008.

The Landlord stated that the Tenant still owes \$25.00 in rent from October of 2008.

The Landlord that she would like to end this tenancy as early as possible, as the Tenant's guest are using illegal drugs in the rental unit, and the Tenant is repeatedly asking another occupant of the rental unit for money.

Analysis

Section 46 of the Act stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy for Unpaid Rent to either pay all of 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 on October 31, 2008.

After considering all of the oral and written evidence submitted I find that the Landlord has not satisfied the legislative requirements to end this tenancy early. Although activities of the Tenant and/or her guests may be grounds to end a tenancy with proper notice, I find that it would not be unreasonable or unfair to the Landlord of other occupants of the residential property to wait for a notice to end the tenancy under section 47 of the Act to take effect.

In reaching this conclusion I was strongly influenced by the fact that this tenancy is ending on October 31, 2008, pursuant to section 46 of the Act. On this basis, I dismiss the Landlord's application to end this tenancy early.

In the absence of evidence to the contrary, I find that the Tenant has not paid rent in the amount of \$25.00 for October of 2008.

I find that the Landlord's 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 at 1:00 p.m. on October 31, 2008. 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 \$75.00, which is comprised on \$25.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

Date of Decision: October 20, 2008