DECISION AND REASONS

Dispute Codes:

OP, MNR, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of possession, a monetary Order for unpaid rent and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present oral evidence and to make submissions during the hearing

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of possession, 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 55, 67, and 72 of the *Residential Tenancy Act (Act).*

Background and Evidence

The tenancy agreement requires the tenant to pay monthly rent of $500.00 by the first of each month. During the hearing the parties agreed that the tenant was personally served a 10 Day Notice to End Tenancy by the building manager by April 20, 2009. 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 pays the rent in full or files an Application for Dispute Resolution within five days.

The Landlord stated that the tenant owes rent for January to May 2009 inclusive; less one $250.00 payment.

Analysis

Section 53 of the *Act* stipulates that if the effective date stated in a Notice is earlier that the earliest date permitted under the legislation, the effective date is deemed to be the earliest date that complies with the legislation. Therefore, I find that the effective date of this Notice to End Tenancy was April 30, 2009.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice to End Tenancy that required the tenant to vacate the rental unit on April 20, 2009 pursuant to section 46 of the *Act.*

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 $2,250.00 for January to May, 2009 inclusive, and that the landlord is entitled to compensation in that amount.

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 **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 **$2,300.00,** which is comprised of $2,250.00 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 of $2,300.00**.** 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.

Dated May 27, 2009.

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Dispute Resolution Officer