



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

OPR, MNR, FF

Introduction

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

I reviewed the evidence on the case file prior to the Hearing. The Landlord gave affirmed evidence and this matter proceeded on its merits.

Issue(s) to be Decided

This is the Landlord’s application for an Order of Possession, a Monetary Order for unpaid rent, and to recover the filing fee from the Tenant.

- (1) Is the Landlord entitled to an Order of Possession?
- (2) Is the Landlord entitled to a monetary order?
- (3) Is the Landlord entitled to recover the filing fee from the Tenant?

Background and Evidence

Landlord’s evidence

The Landlord testified that he served the Tenant with the Notice to End Tenancy for Unpaid Rent or Utilities by posting the Notice to the door of the Tenant’s residence on March 2, 2009.

The Landlord testified that he served the Tenant with a copy of the Application for Dispute Resolution and hearing package on March 20, 2009, by posting a copy of the documents on the door at the Tenant's residential address.

The Landlord testified that:

- The monthly rent is \$450.00, due on the first day of the month.
- The Tenant is in arrears of rent for March, 2009, in the amount of \$450.00.
- The Tenant did not pay a security deposit.

The Landlord requested an Order of Possession. The Landlord applied for unpaid rent for the month of March, 2009 and loss of rent for the months of April and May, 2009, in the total amount of \$1,350.00.

Analysis

I accept the Landlord's testimony that the Tenant was duly served with the Notice to End Tenancy. Service by way of posting a document on a tenant's door is deemed to be served three days after posting the document. In this case, service was effected on March 2, 2009, and the effective end to the tenancy is therefore March 15, 2009.

The Tenant did not pay the rental arrears or dispute the Notice to End Tenancy within 5 days of being served with the Notice to End Tenancy and are therefore pursuant to Section 46(5) of the Act, conclusively presumed to have accepted that the tenancy ended effective March 15, 2009. The Landlord is entitled to an Order of Possession and I make that order.

I accept the Landlord's testimony that he served the Tenant with the Notice of Hearing Package and Application for Dispute Resolution, on March 20, 2009, by posting it on the Tenant's door. Pursuant to Section 90 of the Act, a document served in such a manner is deemed to have been received on the 3rd day after posting it on the Tenant's door. In

spite of being served with the documents, the Tenant did not appear at today's Hearing and the Hearing proceeded in his absence.

The Landlord has established his monetary claim for rent arrears for March, 2009 and loss of rent for April, 2009.

The Landlord has been successful in his application and is entitled to recover the filing fee in the amount of \$50.00 from the Tenant.

I therefore make a monetary order in favour of the Landlord in the amount of \$950.00.

Conclusion

I grant the Landlord a monetary order for \$950.00 against the Tenant. This order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

Under Section 55 of the Act, the Landlord is entitled to an Order of Possession and I hereby issue the order effective two days from service of the order. This order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

May 4, 2009
