



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision and Reasons

Dispute Codes:

FF,

MNR,

OPR

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.

The Landlord’s agent gave affirmed evidence at the Hearing and the Hearing proceeded on its merits.

Preliminary Matter

This matter was originally scheduled to be heard on May 28, 2009 at 1:30 p.m. The Dispute Resolution Officer signed into the Hearing at 1:30 p.m. At 1:40 p.m., neither party had signed into the conference, and the Dispute Resolution Officer exited the conference call.

As the result of an enquiry at 1:50 p.m. on May 28, 2009, made by the Landlord, it was determined that due to an administrative error, the Dispute Resolution Officer used the wrong sign-in code for the teleconference. It was further determined, by a search of the teleconferencing system, that the Landlord had signed into the conference at 1:30 p.m. and left the conference at 1:50 p.m. The Tenant did not sign into the conference at all on May 28, 2009.

Therefore, the Hearing was reconvened to June 2, 2009, at 3:00 p.m. to hear the Landlord's testimony. The Tenant, not having appeared on May 28, 2009, was not notified of the June 2, 2009, rescheduled conference.

Introduction

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

Background and Evidence

The Landlord's agent testified that she issued and mailed the Tenant the Notice to End Tenancy for Unpaid Rent on April 9, 2009, by regular mail to the rental unit.

The Landlord's agent testified that she mailed the Tenant the Notice of Hearing package on April 24, 2009, by registered mail to the rental unit. The Landlord provided a tracking number for the registered mail package.

The Landlord's agent testified that the monthly rent for the rental unit is \$485.00. The Tenant did not pay a security deposit to the Landlord. The Tenant did not pay rent for the month of April, 2009. The Landlord believes the Tenant may have vacated the rental unit, but requested an Order for Possession in the event that the Tenant is still residing there.

Analysis

I accept the Landlord's agent's testimony that she duly served the Tenant with the Notice to End Tenancy issued April 9, 2009, in accordance with the provisions of Section 88(c) of the Act. Section 90 of the Act deems service in this manner to be

effective 5 days after mailing the documents. Therefore the effective date of the end of tenancy was April 24, 2009. The Tenant did not pay the outstanding rent and did not dispute the Notice to End Tenancy within 5 days of being served. Therefore, pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on April 24, 2009. Therefore, the Landlord is entitled to an immediate Order of Possession and I make that Order.

I accept the Landlord's agent's testimony that she duly served the Tenant with the Notice of Hearing package, by registered mail, on April 24, 2009. Despite being duly served, the Tenant did not appear at the Hearing on May 28, 2009, and this reconvened Hearing proceeded in her absence.

I accept the Landlord's agent's testimony that the Tenant did not pay rent for the month of April, 2009, in the amount of \$485.00. With respect to Landlord's application for late fees, this portion of the Landlord's claim is dismissed as the Landlord did not provide evidence that the Tenant had agreed to pay late fees (i.e. a copy of the Tenancy Agreement).

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

The Landlord has established a monetary claim in the amount of \$535.00, for unpaid rent and for recovery of the filing fee.

Conclusion

Pursuant to Section 67 of the Act, I hereby grant the Landlord a Monetary Order in the amount of \$535.00 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.

Pursuant to Section 55 of the Act, I hereby grant the Landlord an Order of Possession, **effective 2 days from service of the order upon the Tenant.** 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.

June 2, 2009
