

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 provided by the Landlord prior to the Hearing. The Landlord's interpreter affirmed to interpret the Punjabi language to the English language and the English language to the Punjabi language to the best of his ability. The Landlord, through the interpreter 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 for the cost of the application 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 testimony

The Landlord testified that he served the Tenant with the Notice to End Tenancy for

Unpaid Rent or Utilities by posting a copy of the Notice to the door of the Tenant's residence on April 20, 2009.

The Landlord testified that he mailed the Tenant the Application for Dispute Resolution and hearing package on April 30, 2009, by registered mail, to the Tenant's residential address. The Landlord provided a copy of the registered mail receipt and tracking number. The Landlord testified that the registered mail package was returned to him, unclaimed.

The Landlord testified that:

- The monthly rent is \$600.00, due on the fifteenth day of the month. The Tenant paid a security deposit to the Landlord, but it was returned.
- The Tenant remains in the rental unit.
- The Tenant has not paid all of the rent for the period of February 15 to March 14. \$200.00 remains outstanding. The Tenant has not paid any rent for the periods of March 15 to April 14 and April 15 to May 14. The Landlord requested a monetary order in the amount of \$1,400.00 for unpaid rent.
- The Landlord asked for an Order of Possession and to recover the filing fee for the cost of the application from the Tenant.

Analysis

I accept the Landlord's testimony that the Tenant was duly served with the Notice to End Tenancy. Service in this manner is deemed to be effected 3 days after posting the Notice to End Tenancy. The Tenant did not pay the rental arrears or dispute the Notice to End Tenancy within 5 days of being deemed served with the Notice to End Tenancy. Pursuant to Section 47(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. In this case, service was effected on April 23, 2009, and the effective end to the tenancy was therefore May 3, 2009.

Therefore, the Landlord is entitled to an immediate Order of Possession and I make that order.

I accept the Landlord's testimony that he mailed the Tenant the Notice of Hearing Package and Application for Dispute Resolution, by registered mail to the Tenant's residence, on April 30, 2009. Section 90 of the Act deems documents served in this manner to be received on the 5th day after mailing the document. In spite of being served with the document, the Tenant did not appear at today's Hearing and the Hearing proceeded in her absence.

Based on the testimony of the Landlord, and the absence of any evidence to the contrary from the Tenant, the Landlord has established the Landlord's monetary claim for arrears in the amount of \$1,400.00.

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.

Conclusion

Under Section 55 of the Act, I grant the Landlord an Order of Possession **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.

Pursuant to Section 67 of the Act, I hereby grant the Landlord a Monetary Order in the amount of \$1,450.00 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.

June 4, 2009
