



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent as well as to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing by registered mail on December 14, 2009. According to the Canada Post online tracking system, the Tenant received the hearing package on December 16, 2009. I find that the Tenant was served as required by s. 89 of the Act and the hearing proceeded in his absence.

At the beginning of the hearing, the Landlord's agent confirmed that the person named on the application was a principal of the corporate Landlord and that the application should have referred to the corporate Landlord. Consequently, the style of cause is amended to reflect this change.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there arrears of rent and if so, how much?

Background and Evidence

This tenancy started on November 1, 2000. Rent is \$829.66 per month payable in advance on the 1st day of each month. The Landlord provided a statement of account for the Tenant showing that he had rent arrears for February 2009 of \$529.66 and did not pay rent for August 2008 and for the period, May 1, 2009 – December 31, 2009.

The Landlord said that a 10 Day Notice to End Tenancy for Unpaid rent was posted on the Tenant's door on or about October 5, 2009 however the Tenant has not made any payments on the arrears set out above.

Analysis

Section 46(1) of the Act states that a Landlord may end a tenancy if rent is unpaid by giving the Tenant a notice to end tenancy for non-payment of rent. Section 46(3) of the Act states that the notice to end tenancy must comply with s. 52 of the Act.



Dispute Resolution Services

Page: 2

Residential Tenancy Branch
Ministry of Housing and Social Development

Section 52 of the Act states that in order to be effective, a notice to end tenancy must be signed and dated, give the address of the rental unit, state the grounds for ending the tenancy and state the effective date of the notice. I find that the 10 Day Notice to End Tenancy is deficient in that it is not signed and dated by the Landlord and does not state the effective date. As a result, I find that the Notice does not comply with s. 52 of the Act and is of no force and effect. Consequently, the Landlord's application for an Order of Possession is dismissed with leave to reapply.

However, I do find that the Landlord is entitled to recover rent arrears to December 31, 2009 in the amount of \$7996.20 as well as the \$100.00 filing fee for this proceeding.

Conclusion

The Landlord's application for an Order of Possession is dismissed with leave to reapply. A Monetary Order in the amount of **\$8,096.20** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 20, 2010.

Dispute Resolution Officer