



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, FF

Introduction

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

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 month to month tenancy started approximately 5 years ago. Rent is \$595.00 per month payable in advance on the 1st day of each month. The Landlord served the Tenant with a Ten Day Notice to End Tenancy for Unpaid Rent on December 29, 2009 by posting it to the rental unit door.

The Tenant does not dispute that he has rent arrears as set out on the 10 Day Notice and admits that that amount remains unpaid.

Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must either pay the overdue rent or apply for dispute resolution. If a Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time. Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy 3 days after it was posted, or on January 1, 2010. Consequently, the Tenant would have had to pay the amount on the Notice or apply to dispute that amount no later than January 6, 2010.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.



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I also find that the Landlord is entitled to recover rent arrears up to and including December 31, 2009 in the amount of \$1,792.50 as well as the \$50.00 filing fee for this proceeding.

Conclusion

An Order of Possession to take effect 48 hours after service of it on the Tenant and a Monetary Order in the amount of \$1,842.50 have been issued to the Landlord. A copy of the Orders must be served on the Tenant; the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: February 24, 2010.

Dispute Resolution Officer