

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. The Landlord said she served the Tenant with a copy of the Application and Notice of Hearing in person on March 1, 2010. The Tenant admitted that he received the Notice of the Hearing but claimed that he did not receive a copy of the Landlord's application. The Tenant said he did not contact the Residential Tenancy Branch to find out what the hearing was about but believed the Notice of the Hearing had to do with unpaid rent.

I find that the Tenant probably was served with a complete hearing package which would have included the Landlord's application. In any event, I find that the Tenant would not have been prejudiced had he not received the Application as only the Landlord's claim for unpaid rent (which the Tenant did not dispute) was dealt with at this hearing.

Issues(s) to be Decided

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

Background and Evidence

This tenancy started on or about January 1, 2008. Rent is \$675.00 per month payable in advance on the 1st day of each month. The Tenant did not pay rent when it was due for February 2010 and as a result, the Landlord said she served the Tenant in person on February 4, 2010 with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated February 4, 2010. The Landlord did not provide a copy of the 10 Day Notice as evidence at the hearing. The Parties agree that the Tenant has not paid rent for February and March 2010.

Analysis

Section 46(2) of the Act says that a 10 Day Notice for Unpaid Rent must comply with s. 52 of the Act. Section 52 of the Act says that in order to be effective a Notice when given by a Landlord must (among other things) be in the approved form. In the absence of a copy of the 10 Day Notice that was served on the Tenant, I find that there is insufficient evidence to conclude that it is in the approved form or otherwise an effective

Notice and as a result, the Landlord's application for an Order of Possession is dismissed with leave to reapply.

I find that rent is unpaid for February and March 2010 and as a result, I find that the Landlord is entitled to recover \$1,350.00. As the Landlord has only been partially successful in this application, I find that she is entitled to recover one-half of the filing fee for this proceeding or \$25.00.

Conclusion

A monetary order in the amount of **\$1,375.00** has been issued to the Landlord and a copy of it has been 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: March 11, 2010.

Dispute Resolution Officer