

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

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

I reviewed the documentary evidence provided by the Landlord prior to the Hearing. The Tenant did not provide any documentary evidence. The parties gave affirmed evidence and this matter proceeded on its merits.

Issue(s) to be Decided

- (1) Is the Landlord entitled to an Order of Possession?
- (2) Is the Landlord entitled to a monetary order for unpaid rent, and if so, in what amount?

Background and Evidence

Landlord's agent's testimony

The Landlord's agent testified that the Notice to End Tenancy issued April 26, 2010, was posted to the Tenant's door at the rental unit on April 26, 2010. The Landlord provided a copy of the Notice to End Tenancy in evidence.

The Landlord's agent testified that she mailed the Notice of Hearing package and copies of the Landlord's evidence, by registered mail, to the Tenant at the rental unit on May 17, 2010. The Landlord's agent provided copies of the registered mail receipts and tracking numbers in evidence. The Landlord's agent testified that the registered mail documents were returned to the Landlord, unclaimed, on June 9, 2010. The Landlord's agent testified that the Notice of Hearing documents were posted to the Tenant's door on June 16, 2010.

The Landlord provided a copy of the tenancy agreement in evidence. The rental unit is in a nonprofit housing rental property. Monthly rent is currently \$362.00, due on the first day of each month.

The Landlord stated that the Tenant currently owes \$648.00 in unpaid rent.

Tenant's testimony

The Tenant agreed that she owed \$648.00 in unpaid rent. She stated that she had been laid off and was waiting for her Unemployment Insurance. She stated that she could pay June rent immediately and could pay July rent in the middle of July, 2010. The Tenant offered to pay \$80.00 a month towards arrears until the arrears were paid in full.

Landlord's agent's reply

The Landlord's agent stated that the Landlord required payment in full immediately in order to reinstate the tenancy.

Analysis

I accept the Landlord's agent's testimony that the Tenant was served with the Notice to End Tenancy issued April 26, 2010, in accordance with the provisions of Section 88(c) of the *Residential Tenancy Act* (the "Act"). Service in this manner is deemed to be effected 3 days after posting the document. The Tenant did not pay the outstanding rent, or file for dispute resolution, within 5 days of being served with the Notice. Therefore, pursuant to the provisions of Section 46(5) of the Act, the Tenant is presumed to have accepted that the tenancy ended on the effective date of the Notice. The effective date of the Notice was May 9, 2010 (10 days after the Notice was deemed

to be served). Therefore, the Landlord is entitled to an Order of Possession effective 2 days after service of the Order upon the Tenant.

Based on the testimony provided by both parties, and the documentary evidence provided by the Landlord, I find that the Landlord has established its claim for unpaid rent in the amount of \$648.00.

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

The Landlord did not apply against the security deposit, and therefore the security deposit together with accrued interest is available on application by either party, to be administered in accordance with the provisions of Section 38 of the Act.

Conclusion

I grant the Landlord an Order of Possession **effective 2 days after 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.

I hereby grant the Landlord a Monetary Order in the amount of \$698.00 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.

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: June 30, 2010.
