



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 as well as 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 rent arrears and if so, how much?

Background and Evidence

This month-to-month tenancy started approximately 12 years ago. Rent is \$640.00 per month payable in advance on the 1st day of each month.

The Landlord served the Tenant by registered mail on July 8, 2010 with a 10 Day Notice to End Tenancy for Unpaid Rent dated July 8, 2010. The Landlord said the Tenant has not paid the rent arrears set out on the Notice (which were for the months of April, May, June and July, 2010) and has not paid rent for August or September, 2010. The Agent for the Tenant agreed that there are currently rent arrears of \$3,840.00 (to the end of September, 2010).

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 will end 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 5 days after it was mailed, or on July 13, 2010. Consequently, the Tenant would have had to pay the amount on the Notice or apply to dispute that amount no later than July 19, 2010 (as July 18, 2010 was a Sunday or non-business day).



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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 2 days after service of it on the Tenant. I also find that the Landlord is entitled to recover rent arrears in the amount of \$3,840.00 as well as the \$50.00 filing fee for this proceeding.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a monetary order in the amount of **\$3,890.00** 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: September 15, 2010.

Dispute Resolution Officer