



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPR, MNR

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent and a monetary Order for unpaid rent.

The male Agent for the Landlord stated that he personally served the Tenant with copies of the Application for Dispute Resolution and Notice of Hearing on September 16, 2010. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent and to a monetary Order for unpaid rent, pursuant to sections 55 and 67 of the *Residential Tenancy Act (Act)*. I note that the Landlord has not made application to recover late or NSF fees.

Background and Evidence

The Agent for the Landlord stated that this tenancy began on August 01, 2009; that the Tenant was required to pay monthly rent of \$840.00 when this tenancy began; that the rent was increased to \$866.00 on September 01, 2010; and that rent is due on the first day of each month.

The Landlord submitted a ledger that indicates the Tenant did not pay \$800.00 in rent from December of 2009; that he did not pay \$840.00 in rent from January of 2010; and that he paid \$600.00 towards these arrears in March of 2010, leaving total rent arrears of \$1,040.00 as of March of 2010, plus \$75.00 in NSF fees.

The ledger shows that the Tenant paid all of the rent that was due for April of 2010, plus an additional \$250.00 towards his arrears, leaving total rent arrears of \$790.00 as of April of 2010, plus \$100.00 in NSF fees.

The ledger shows that the Tenant paid all of the rent that was due for May and June of 2010, plus an additional \$160.00 towards his arrears, leaving total rent arrears of \$630.00 as of June of 2010, plus \$150.00 in NSF fees.

The ledger shows that the Tenant paid all of the rent that was due for July and August of 2010, plus an additional \$35.00 towards his arrears, leaving total rent arrears of \$595.00 as of August of 2010, plus \$150.00 in NSF fees.

The ledger shows that the Tenant only paid \$400.00 in rent for September of 2010, leaving arrears from September of \$466.00, which brought the total rent arrears to \$1,061.00, plus \$150.00 in NSF fees. The male Agent for the Landlord stated that the Tenant paid an additional \$300.00 in rent on September 17, 2010, reducing the total rent arrears to \$761.00, plus \$150.00 in NSF fees.

The male Agent for the Landlord stated that the Tenant paid rent for October plus an additional \$134.00, reducing the total rent arrears to \$627.00, plus \$150.00 in NSF fees.

The male Agent for the Landlord stated that he posted a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of September 15, 2010, on the door of the rental unit on September 02, 2010. The Notice declared that the Tenant owed \$1,611.00 in rent that was due on September 01, 2009. The male Agent for the Landlord stated that this amount included rent from September of 2010, plus the outstanding arrears from August of 2010, plus \$150.00 in NSF fees

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$840 for the period between August 01, 2009 and August 01, 2010, after which the monthly rent was increased to \$866.00. Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that rent was due on the first day of the month.

Section 26(1) of the *Act* requires tenants to pay rent to their landlord. Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant currently owes rent in the amount of \$627.00. In reaching this conclusion I relied heavily on the ledger that was submitted in evidence and on the testimony that the Tenant paid an additional \$434.00 after the last entry was made on the ledger. As the Tenant is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$627.00 in outstanding rent to the Landlord.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within 10 days if appropriate notice is given to the tenant. Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant was served with a Notice to End Tenancy that required the Tenant to vacate the rental unit on September 15, 2010, pursuant to section 46 of the *Act*.

Section 46 of the Act stipulates that a Tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy has ended. On this basis I find that the Landlord is entitled to an Order of Possession.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$627.00, in unpaid rent and I grant the Landlord a monetary Order in that amount. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court 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: October 21, 2010.

Dispute Resolution Officer