

DECISION

Dispute Codes – OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order due to unpaid rent.

This hearing was conducted via teleconference and was attended by the landlord only. The tenants did not attend.

The landlord testified that he served the tenants with notice of this hearing personally on February 18, 2011 and that this service was witnessed by a third party.

Based on this testimony, I find that the tenants have been served with the notice of this 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; to a monetary order for unpaid rent; and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted the following evidentiary material:

- Testimonial confirmation that the parties entered a 1 year fixed term tenancy beginning on February 1, 2011 for the monthly rent of \$1,750.00 due on the 1st of each month and a security deposit of \$875.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on February 9, 2011 with an effective vacancy date of February 19, 2011 due to \$1,750.00 in unpaid rent.

The landlord testified that the tenants failed to pay the full rent owed for the month of February 2011 and that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent personally on February 9, 2011 at 7:00 p.m. and that this service was witnessed by a third party.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on February 9, 2011 and the effective date of the notice is February 19, 2011. I accept the evidence before me that the tenants failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service on the tenants**. This order must be served on the tenants and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,800.00** comprised of \$1,750.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$875.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$925.00**. This order must be served on the tenants and may be filed in the Provincial Court (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: February 24, 2011.

Residential Tenancy Branch

Now that you have your decision...

You might want more information about what to do next.

If you do, visit the RTB website at www.rto.gov.bc.ca for information about:

- How and when to enforce an order of possession:
Fact Sheet RTB-103: Landlord: Enforcing an Order of Possession
- How and when to enforce a monetary order:
Fact Sheet RTB-108: Enforcing a Monetary Order
- How and when to have a decision or order clarified or corrected:
Fact Sheet RTB-111: Clarification or Correction of Orders and Decisions
- How and when to apply for the review of a decision:
Fact Sheet RTB-100: Review of a Residential Tenancy Branch Decision **(Please Note: Legislated deadlines apply)**

If you would like to personally speak with Residential Tenancy Branch (RTB) staff or listen to our 24 Hour Recorded Information Line, please call:

- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602
- Elsewhere in BC: 1-800-665-8779

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at www.rto.gov.bc.ca