



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR & MNR

Introduction

This hearing dealt with the landlord's application seeking an Order of Possession and a monetary award due to the tenant's failure to pay rent.

The landlord appeared, provided documentary evidence prior to the hearing in accordance with the rules of procedure and gave affirmed oral testimony. The landlord testified that the tenant was served with notice of this application, evidence and hearing by registered mail on January 20, 2010.

Based on the verbal testimony provided by the landlord, I am satisfied that the tenant was served with notice of this proceeding by registered mail and I deem that the tenant received notice on the fifth day after the registered mail was sent pursuant to section 90(a) of the *Act*.

I proceeded with the hearing in the tenant's absence.

Issue(s) to be Decided

Did the tenant breach the tenancy agreement and *Act* by failing to pay the rent entitling the landlord to an Order of Possession and a monetary relief?

Background and Evidence

This tenancy began on September 1, 2010 for the monthly rent of \$600.00 and a \$300.00 security deposit paid by the tenant on August 27, 2010.

On January 7, 2011 the tenant was served with a 10 day Notice to End Tenancy Due to Unpaid Rent. The landlord stated that the tenant did pay his rent owed for January 2011 but his rent from December 2010 by cheque had insufficient funds. The landlord did learn that the tenant's cheque for December's rent did not process until January 7, 2011.

The landlord stated that the tenant has paid most of the outstanding rent except for \$150.00. The landlord requested an Order of Possession and a monetary Order.

Analysis

Based on the evidence provided by the landlord and in the absence of evidence to the contrary, I find that the tenant has failed to pay the rent owed of \$150.00 for December 2010 as required by the tenancy agreement. I find that the tenant was served with a 10 day Notice to End Tenancy due to Unpaid rent and that the tenant failed to either pay the outstanding rent or to file an application for Dispute Resolution to dispute the notice in the five days provided by section 46(4) of the *Act*.

Pursuant to section 46(5) of the *Act*, I find that the tenant has conclusively accepted the end of the tenancy agreement effective January 20, 2011 and on this basis I grant the landlord's application seeking an Order of Possession for the rental unit.

I am satisfied by the documentary evidence provided by the landlord that the tenant failed to pay rent owed in December for the sum of \$150.00 and I grant the landlord a monetary Order for this sum pursuant to section 67 of the *Act*.

Conclusion

I find that the landlord is entitled to an Order of Possession of the rental unit effective **two (2) days** after it has been served upon the tenant. This Order may be 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 due to breach of the tenancy agreement by the tenant for the sum of **\$150.00**. I have granted the landlord a monetary Order for this sum. This Order may be 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: February 03, 2011.

Residential Tenancy Branch