



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, and FF

Introduction

This application was brought by the landlord on March 15, 2011 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by posting on the tenant's door on March 4, 2011. The landlords also sought a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding.

At the commencement of the hearing, the landlords advised that the tenant had vacated the rental unit on or about April 1, 2011 and the Order of Possession was no longer required.

Despite having been served with the Notice of Hearing in person on March 16, 2011, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding.

Background and Evidence

This tenancy began on September 1, 2006 and rent was \$595 per month at the conclusion of the tenancy. The present manager assumed his duties during the tenancy and does not have a record of a security deposit. The tenant did not provide a forwarding address.

During the hearing, the manager gave evidence that the Notice to End Tenancy had been served after the tenant had an accumulated rent arrears of \$2,180. He stated that

the tenant had made no payment on the rent within five days of issuance of the Notice to End Tenancy or any time thereafter.

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due. Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenant did not make application to dispute the notice and I accept the evidence of the landlord that he did not pay the full rent within five days of receiving the notice.

Therefore, under section 46(5) of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date under the Notice to End Tenancy which was March 17, 2011 taking into account the three days deemed service of notice served by posting..

In the absence of any evidence to the contrary, I accept the evidence of the landlord that the tenant had an accumulated rent arrears of \$2,180 and award that amount.

In addition, as the application has succeeded on its merits, I find that the landlord is entitled to recover the filing fee for this proceeding from the tenant.

Therefore, the landlord is entitled to a monetary award totaling \$2,230.00.

Conclusion

The landlords' copy of this decision is accompanied by a Monetary Order for \$2,230.00, enforceable through the Provincial Court of British Columbia, for service on the tenant.

The landlord remains at liberty to make application for damages ascertained at the conclusion of the tenancy.

April 4, 2011