



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent and for compensation for a loss of rental income.

The Landlord said he served the Tenant in person on March 23, 2011 with the Application and Notice of Hearing (the "hearing package"). Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issue(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 tenancy started on August 1, 2010. Rent is \$600.00 per month payable in advance on the last day of each month. The Landlord said the Tenant did not pay rent for March 2011 when it was due and as a result on March 2, 2011 he served the Tenant in person with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 2, 2011. The Landlord said the Tenant has not paid rent for March or April 2011.

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.

I find that the Tenant received the 10 day Notice to End Tenancy in person on March 2, 2011. Consequently, the Tenant would have had to pay the amount on the Notice or apply to dispute that amount no later than March 7, 2011.

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 for March 2011 in the amount of \$600.00, rent arrears for April 1 – 7, 2011 in the pro-rated amount of \$140.00, a loss of rental income for April 8 – 15, 2011 in the pro-rated amount of \$160.00 as well as the \$50.00 filing fee for this proceeding.

The Landlord may re-apply for a further loss of rental income for April 2011 if he is unable to re-rent the rental unit for the period April 16 – 30, 2011.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of **\$950.00** 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: April 07, 2011.

Residential Tenancy Branch