



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent; authorization to retain the security deposit, and recovery of the filing fee. The tenant did not appear at the hearing. The landlord provided a registered mail receipt as proof of service of the hearing documents. The landlord confirmed the tenant was residing at the rental unit at the time of mailing and that the mail was not returned to him. I found the landlord provided sufficient proof of service of the hearing documents and I proceeded to hear from the landlord without the tenant present.

Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid rent?
3. Is the landlord authorized to retain the security deposit?

Background and Evidence

The tenancy commenced in February 2010 and a \$550.00 security deposit was paid. The tenant's husband and co-tenant vacated the rental unit approximately three months ago and the tenant remained in the unit with two children. The tenant is required to pay rent of \$1,100.00 on the 1st day of every month. The tenant failed to pay rent for March 2011 and on March 20, 2011 the landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on the tenant's door. The Notice indicates that \$1,100.00 was outstanding as of March 1, 2011 and has an effective date of March 31, 2011. The tenant did not pay any monies towards the unpaid rent after the Notice was posted. The tenant has not paid any rent for April 2011 and continues to reside in the unit.

The landlord provided a copy of the 10 Day Notice, a tenancy application, and registered mail receipt as evidence for this proceeding.

Analysis

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

Since the Notice was posted on the door, it is deemed to be received three days later. I have changed the effective date to read April 2, 2011 in compliance with section 53 of the Act.

Since the tenant did not pay the outstanding rent or dispute the Notice I find the tenancy ended on April 2, 2011 and the landlord is entitled to regain possession of the rental unit. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant. If the tenant does not comply with the Order of Possession the landlord may enforce it in The Supreme Court of British Columbia as an Order of that court.

I find the landlord entitled to recover unpaid rent for the months of March and April 2011. I authorize the landlord to retain the tenant's security deposit in partial satisfaction of the rent owed the landlord. I also award the landlord the filing fee paid for this application.

In light of the above, the landlord is provided a Monetary Order calculated as follows:

March rent	\$ 1,100.00
April rent	1,100.00
Filing fee	50.00
Less: security deposit	<u>(550.00)</u>
Monetary Order	\$ 1,700.00

The landlord must serve the Monetary Order upon the tenant and may enforce it in Provincial Court (Small Claims) as necessary.

Conclusion

The landlord is provided an Order of Possession effective two (2) days after service upon the tenant. The landlord is authorized to retain the security deposit and is provided a Monetary Order for the balance of \$1,700.00 to serve upon the tenant.

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 29, 2011.

Residential Tenancy Branch