



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's request for an Order of Possession and Monetary Order for unpaid rent. Both parties appeared at the hearing and were provided the opportunity to make submissions and to respond to the submissions of the other party.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?
Is the landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

The tenancy commenced January 2010 and the tenant is required to pay rent of \$680.00 on the 1st day of every month. The tenant did not pay rent for January, February, March or April 2011. On April 2, 2011 the landlord personally served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice). The Notice indicates rent of \$2,720.00 is outstanding as of April 1, 2011 and has an effective date of April 11, 2011. The tenant did not pay the outstanding rent or dispute the Notice.

During the hearing the tenant explained that he is waiting for WCB benefits and intends on paying the landlord as soon as he receives payment. The landlord stated he has waited a number of months for the tenant to pay his rent and cannot continue to let the tenancy continue without payment. The landlord agreed that if the tenant pays the rental arrears within three days of today's date the landlord will not enforce the Order of Possession.

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.

Upon review of the 10 Day Notice I find it to be valid and since the tenant did not pay the outstanding rent or dispute the Notice I find the tenancy ended on April 12, 2011 and the landlord is entitled to regain possession of the rental unit. I have changed the effective date of the Notice to comply with the Act pursuant to section 53 of the Act.

Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant. In light of the landlord's statements during the hearing, the landlord must wait until after April 30, 2011 (three days after the date of this decision) before serving the Order of Possession and may only serve the Order if the tenant has not paid the rental arrears in full by April 30, 2011. 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.

Based upon the undisputed evidence before me, I find the landlord entitled to recover unpaid rent of \$2,720.00 from the tenant for the months of January through April 2011 and I award that amount to the landlord. I further award the landlord recovery of the filing fee paid for this application. The landlord is provided a Monetary Order in the total amount of \$2,770.00 to serve upon the tenant and enforce in Provincial Court (Small Claims) as necessary.

Conclusion

The landlord is provided an Order of Possession that he may serve upon the tenant after April 30, 2011 if the tenant does not pay the full rental arrears by April 30, 2011. The landlord has also been provided a Monetary Order in the amount of \$2,770.00 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 27, 2011.

Residential Tenancy Branch