

DECISION

Dispute Codes: OPR, MNR and FF

Introduction

This application was brought by the landlord on May 27, 2011 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served on May 6, 2011 and setting an end of tenancy date of May 25, 2011. The landlord also sought a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding.

Issues to be Decided

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

Background and Evidence

This tenancy began on October 1, 2007 and rent is \$280 per month.

During the hearing, the landlord submitted evidence that the Notice to End Tenancy had been served after the tenant had not paid rent for March, April and May of 2011.

In the interim, the tenant did not pay rent for June 2011, but made a payment of \$600 on June 7, 2011. The landlord acknowledged receipt of the payment by letter of June 22, 2011 with the notation that it had been accepted for use and occupancy only and did not reinstate the tenancy.

The tenant did not contest the landlord's evidence and the parties acknowledged that the tenant would be meeting with the area manager the following day to explore the possibility of reinstating the tenancy. However, the landlord's agent requested the Order of Possession in the event that initiative did not succeed. The landlord's agent also requested the Monetary Order for the balance of the unpaid rent.

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 before me that the rent was not paid within five days of receipt of 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 May 25, 2011.

Therefore, I find that the landlord is entitled to an Order of Possession effective two days from service of it on the tenant.

I find that the landlord is entitled to a Monetary Order for the unpaid rent and filing fee, calculated as follows:

Rent for March 2011	\$ 280.00
Rent for April 2011	280.00
Rent for May 2011	280.00
Rent June 2011	280.00
Filing fee	50.00
Sub total	\$1,170.00
Less payment made on June 7, 2011	- 600.00
TOTAL	\$ 570.00

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect two days from service of it on the tenant.

The landlord's copy of this decision is accompanied by a Monetary Order for **\$570.00**, enforceable through the Provincial Court of British Columbia, for service on the tenant.

June 22, 2010