



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNR, FF

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent and for Cause; a Monetary Order for unpaid rent; and to recover the filing fee associated with this application.

The landlord and her agent participated in the hearing and provided affirmed testimony. The agent testified that he served the Notice of a Dispute Resolution Hearing to the tenant in person at approximately 11:40AM, on June 7th, 2011. The tenant did not participate and the hearing proceeded in the tenant's absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of a two bedroom suite in a four-plex building. There was no written agreement in this tenancy which started in July 2004. The rent of \$608.00 is payable on the first of each month and the tenant did not pay a security deposit.

The landlord testified that the tenant was in arrears of \$258.00 for the January 2011 rent, and that this amount has not been paid to date. She stated that she served the

tenant with the 10 Day Notice to End Tenancy in person on May 12th, 2011. The landlord's agent testified that when he served the tenant the notice of a dispute resolution hearing on June 7th, 2011, the tenant said that he would be out in ten days; however the agent could not confirm whether the tenant has moved out; and the landlord stated that she does not reside in this province.

Analysis

I accept the landlord's agent's undisputed testimony that he served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a notice to end tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenant in this matter has not filed an application for dispute resolution.

Accordingly I find that the landlord had grounds to issue the 10 Day Notice to End Tenancy. The landlord is entitled to an order of possession and it is not necessary that I consider the landlord's application concerning the Notice to End Tenancy for Cause. Based on the evidence I also find that the landlord is entitled to a monetary order as claimed for the unpaid rent.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the Order is served upon the tenant. This Order must be served on the tenant. If the tenant fails to comply, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord established a claim of \$258.00. Since she was successful, the landlord is entitled to recover the \$50.00 filing fee and pursuant to Section 67 of the Act, I grant the landlord a monetary order totalling \$308.00. This Order may be registered in the Small Claims Court and enforced as an order of that Court.

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: June 24, 2011.

Residential Tenancy Branch