



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter dealt with an application by the Landlord for a Monetary Order for unpaid rent as well as to recover the filing fee for this proceeding. At the beginning of the hearing the Landlord's agent withdrew her application for an Order of Possession.

The Landlord's agent said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on May 14, 2011. Section 90(a) of the Act says that a document delivered by mail is deemed to be received by the recipient 5 days later even if they fail to pick up the mail. 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. Are there rent arrears and if so, how much?

Background and Evidence

This fixed term tenancy started on September 1, 2010 and expires on September 30, 2011. Rent is \$1,020.00 per month payable in advance on the 1st day of each month.

The Landlord said the Tenant's rent cheque for April 2011 was returned for non-sufficient funds and as a result, on April 11, 2011 the Landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 11, 2011 on the rental unit door. The Landlord said the Tenant's post-dated rent cheque for May 2011 was negotiated and applied to the April 2011 rent arrears leaving rent arrears for May 2011 of \$945.00.

Analysis

In the absence of any evidence from the Tenant to the contrary, I find that there are rent arrears of \$945.00 for May 2011 and as a result, I find that the Landlord is entitled to recover that amount.

The Landlord said she has a post dated cheque from the Tenant dated June 1, 2011. Given that payments are deemed to be applied to rent arrears, this payment (if successfully negotiated) would be applied to the rent arrears for May 2011 leaving rent arrears still owing for June 2011 of \$945.00. If that balance is not paid in full when it is due, the Landlord may issue another 10 Day Notice for unpaid rent for June 2011 and re-apply for an Order of Possession.

As the Landlord has been successful in this matter, I also find that she is entitled pursuant to s. 72(1) of the Act to recover the \$50.00 filing fee she paid for this proceeding.

Conclusion

The Landlord's application for an Order of Possession is withdrawn. A Monetary Order in the amount of **\$995.00** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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 01, 2011.

Residential Tenancy Branch