



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Manager stated that he personally served the Tenant with copies of the Application for Dispute Resolution and Notice of Hearing on June 24, 2011. In the absence of evidence to the contrary, I accept that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Manager stated that this tenancy began on November 01, 2010 and that the Tenant is required to pay monthly rent of \$570.00 on the first day of each month.

The Manager stated that on May 02, 2011 the Tenant's rent was in arrears by \$835.00. The Manager stated that the Tenant paid \$565.00 in May, which reduced the arrears to \$270.00. He stated that rent was not paid when it was due on June 01, 2011, which brought the arrears to \$840.00. He stated that the Tenant paid \$270.00 in June, which reduced the arrears to \$570.00 for the period up to, and including, June 30, 2011.

The Manager stated that he personally served the Tenant with a Ten Day Notice to End Tenancy for Unpaid Rent, which had a declared effective date of May 11, 2011, on May 02, 2011. The Notice declared that the Tenant owed \$835.00 in rent that was due on May 01, 2011.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant entered into a tenancy agreement with the Landlord that requires the Tenant to pay monthly rent of \$570.00 on the first day of each month.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant's rent is in arrears by \$570.00 for the period up to, and including, June 30, 2011. As the Tenant is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$570.00 in rent to the Landlord, which does not include rent for July of 2011. In reaching the determination that the Tenant must pay rent for all of June of 2011, I was heavily influenced by the fact that the Tenant retained possession of the rental unit for the entire month of June.

If rent is not paid when it is due, a tenancy may be ended pursuant to section 46 of the *Act*. Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant was personally served with a Notice to End Tenancy on May 02, 2011, which directed the Tenant to vacate the rental unit by May 11, 2010, pursuant to section 46 of the *Act*.

Section 46 of the *Act* stipulates that a Tenant has 5 days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy ended. On this basis I find that the Landlord is entitled to an Order of Possession.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$620.00, which is comprised of \$570.00 in unpaid rent and \$50.00 in compensation for the filing

fee paid by the Landlord for this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for the amount of \$620.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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: July 20, 2011.

Residential Tenancy Branch