



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order due to unpaid rent.

The hearing was conducted via teleconference and was attended by the landlord only. The tenant did not attend.

The landlord submitted a signed Proof of Service document which declares that on June 23, 2011 the landlord served the tenant with the notice of hearing documents by posting it on the door of the rental unit.

Based on the written submissions of the landlord, I find that the tenant has been sufficiently served with the notice of hearing documents pursuant to the *Residential Tenancy Act (Act)*.

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 46, 55, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on October 1, 2006 for a 1 year fixed term tenancy beginning on October 1, 2006 that converted to a month to month tenancy on October 1, 2007 for the monthly rent of \$925.00 due on the 1st of each month and a security deposit of \$462.50 was paid;

- Copies of relevant Notice of Rent Increases confirming the latest rent increase raised the monthly rent to \$1,025.00 effective December 1, 2010; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on June 5, 2011 with an effective vacancy date of June 18, 2011 due to \$1,519.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the months of June and July 2011 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on June 5, 2011.

The tenancy agreement stipulates the landlord may charge a late payment fee of \$25.00 for any rent that is not paid on the day the rent is due. The landlord seeks compensation for late payment fees for June and July 2011.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and testimony and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on June 8, 2011 and the effective date of the notice is June 18, 2011. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the tenant is conclusively presumed under section (46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$2,644.00** comprised of \$2,544.00 rent owed; \$50.00 late fees and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 13, 2011.

Residential Tenancy Branch