



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR and FF

Introduction

This application was brought by the landlords on October 17, 2011 seeking an Order of Possession pursuant to a Notice to End Tenancy for unpaid rent served by posting on the tenant's door on October 4, 2011. The landlords 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 landlords are entitled to an Order of Possession and a Monetary Order for the unpaid rent and recovery of the filing fee.

Background and Evidence

This tenancy began on July 1, 2011. Rent is \$1,100 per month and the landlord holds a security deposit of \$550 paid on June 21, 2011.

During the hearing, the landlords gave uncontested evidence that the Notice to End Tenancy had been served after the tenant had a rent shortfall of \$825 for the September 2011 rent and had not paid the rent due on October 1, 2011.

In the interim, the tenant remains in the rental unit, has paid none of the arrears, and did not pay the rent for November 2011.

The tenant attended the hearing and confirmed the landlords' claims and a text message to the landlord that he had found new accommodation and would be vacating the rental unit on November 15, 2011.

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 pay the rent within five days of receiving the notice and did not make application to dispute it.

Therefore, under section 46(5) of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy which was October 17, 2011, taking into account the three days for deemed service of documents served by posting.

Accordingly, I find that the landlords are entitled to an Order of Possession effective two days from service of it on the tenant.

I further find that the landlords are entitled to a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding, calculated as follows:

September 2011 rent shortfall	\$ 825.00
November 2011 rent	1,100.00
Filing fee	<u>50.00</u>
TOTAL	\$3,075.00

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 landlords are also issued with a Monetary Order for **\$3,075.00**, enforceable through the Provincial Court of British Columbia, for service on the tenant.

The landlord is at liberty to make application for any further losses or damage as may be ascertain at the conclusion of the tenancy and the security deposit remains to be disposed of in accordance with section 38 of the *Act* within 15 days of the end of the tenancy..

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: November 09, 2011.

Residential Tenancy Branch