

DECISION

Dispute Codes OPR, OPE, MNR

Introduction

This matter dealt with an application by the Landlord for an Order of Possession, and a Monetary Order for unpaid rent.

The Landlord said the Landlord's agent served the Tenant with the Application and Notice of Hearing (the "hearing package") by posting it on the Tenant's door on October 26, 2011. 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 absences.

Issues(s) to be Decided

1. Is the Landlord entitled to end the tenancy?
2. Is there unpaid rent and if so how much?
3. Is the Landlord entitled to the unpaid rent and if so how much?

Background and Evidence

This tenancy started on May 26, 2011 as a month to month tenancy. Rent is \$850.00 or in lieu of a rent payment the Tenant did work for the Landlord. The Landlord said the Tenant stopped working for them at the end of July, 2011 and has not paid rent since. Rent is due the 1st day of each month. The Tenant did not pay a security deposit.

The Landlord said that the Tenant did not pay \$850.00 of rent for September, 2011, when it was due and as a result, on September 7, 2011, the Landlord's agent personally delivered a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated September 7, 2011 to the Tenant. The Landlord said the Tenant has unpaid rent of \$169.79 for August, 2011, and \$850.00 for each month of October, 2011 and November, 2011, but the Landlord is only claiming the amount on the application which is \$850.00 for the month of September. The landlord continued to say they want to end the tenancy and they requested an Order of Possession for as soon as possible.

Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section

46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy on the day it is personally served to them, or on September 7, 2011. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than October 12, 2011.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that the Landlord is entitled to recover unpaid rent for September, 2011, in the amount of \$850.00.

As the Landlord has been successful in this matter, the Landlord will receive a monetary order for the balance owing as following:

| | | | |
|-------|------------------|----------|-----------|
| | Rent arrears: | \$850.00 | |
| | Subtotal: | | \$850.00 |
| Less: | Security Deposit | \$ 0.00 | |
| | Subtotal: | | \$ 0.00 |
| | Balance Owing | | \$ 850.00 |

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$850.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in

the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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 15, 2011.

Residential Tenancy Branch