



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNDC, FF / CNR

Introduction

This hearing was convened in response to 2 applications: i) by the landlord for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / and recovery of the filing fee; ii) by the tenant for cancellation of a notice to end tenancy. Both parties attended the hearing and gave affirmed testimony.

At the outset of the hearing the tenant requested that the 2 applications be heard separately by way of 2 different hearings. The tenant's request was denied, as I find that the applications are directly related.

Issue(s) to be Decided

Whether either party is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the original fixed term of tenancy was from November 1, 2009 to October 31, 2010. Thereafter, tenancy has continued on a month-to-month basis. Currently, the monthly rent is \$1,048.00 and is payable in advance on the first day of each month. A security deposit of \$512.50 was collected.

Arising from rent which was unpaid when due on January 1, 2012, the landlord issued a 10 day notice to end tenancy for unpaid rent dated January 2, 2012. The notice was served by way of posting on the tenant's door on that same date. A copy of the notice was submitted in evidence. Following this, while the tenant filed an application to dispute the notice on January 5, 2012, he has made no further payment toward rent and he continues to reside in the unit.

The tenant stated that further to these proceedings under the *Residential Tenancy Act*, he has initiated proceedings as an "employee" against the landlord as "employer" under

the *Employment Standards Act*. I find that these proceedings are independent of each other and that my authority to make findings is limited by the provisions set out in the *Residential Tenancy Act*.

Analysis

Based on the documentary evidence and the affirmed testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated January 2, 2012. While the tenant filed an application to dispute the notice within 5 days of receiving it, he has subsequently made no payment toward rent. Accordingly, I find that the landlord has established entitlement to an order of possession.

As for the monetary order, I find that the landlord has established a claim of \$1,118.00, which is comprised as follows:

\$1,048.00: unpaid rent for January 2012

\$ 20.00: fee assessed for late payment of rent (pursuant to the tenancy agreement)

\$ 50.00: filing fee

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service on the tenant. This Order must be served on the tenant. Should the tenant fail to comply with the Order, the Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of \$1,118.00. This Order may be served on the tenant, filed in the 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: January 18, 2012.

Residential Tenancy Branch