



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 by the landlord for an order of possession for cause, a monetary order for unpaid rent and recovery of the filing fee..

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

This matter was adjourned and re-scheduled for January 19, 2012 at 2:30PM due to the tenant having a medical emergency.

On November 23, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause:

The tenant is:

- Repeatedly late paying the rent

The landlord testified that the tenant has been late paying the rent since October 2011 and has not paid the December 2011 or January 2012 rent. As the December and January rent remain unpaid the landlord in this application is seeking a monetary order for \$1900.00. The landlord is also seeking an order of possession for the rental unit and as the tenant stated that he would vacate by January 27th, the landlord has agreed to January 28th as an end of tenancy date.

The tenant testified that he had been paying the rent late and that he did not dispute that. The tenant also stated that he was agreeable to vacating by January 27th and would do so.

The tenant then stated that he had not been served both pages of the notice and the landlord refuted this and stated that he had delivered both pages to the tenant's wife with a witness.

The tenant then requested to discuss his claim and present evidence regarding the tenancy and all the problems they have had however the tenants have not filed for dispute resolution against the landlord.

Analysis

Section 47(4) of the Act states that **within 10 days of receiving** a Notice to End Tenancy for Cause, a tenant must apply for dispute resolution. If the tenant fails to file to dispute the notice, then under section 46(5)(a)(b) 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.

Based on the foregoing, I find that 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 and I find that the landlord is entitled to an order of possession for cause and a monetary order for unpaid rent.

Accordingly I find that the landlord is entitled to a monetary order for \$1900.00.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I hereby grant the landlord an **Order of Possession** effective not later than **1:00 PM, January 28, 2012**. This Order must be served on the tenant(s) and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$1900.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord a monetary order under section 67 for the balance due of **\$1950.00**.

If the amount is not paid by the tenant(s), the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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 19, 2012

Residential Tenancy Branch