



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67; AND
3. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was personally served with the application for dispute resolution and notice of hearing by serving the Notice in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on February 15, 2011. Rent in the amount of \$950.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$475.00. The Tenant failed to pay rent for December 2011 and on December 7, 2011 the Landlord served the Tenant with a notice to end tenancy for non-payment of rent by giving the notice to the Tenant’s boyfriend who apparently resides with the Tenant. On December 23, 2011 the Tenant paid the outstanding rent and the Landlord issued a receipt for “use and

occupancy only". The Tenant has not filed an Application for Dispute Resolution. The Landlord claims an Order of Possession.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Based on the Landlord's evidence I find that the Tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The Tenant has not filed an application to dispute the notice and although the outstanding rent has been paid, it was paid beyond the 5 day limit and I find that by issuing the Tenant with a receipt noted "for use and occupancy only", the Landlord did not reinstate of the tenancy. Given these facts, I find that the Landlord is entitled to an **Order of Possession**. As the Landlord has received the unpaid rent from the Tenant, I find that the Landlord is not entitled to a monetary award. I find that the Landlord is entitled to recovery of the **\$50.00** filing fee and the Landlord must retain this amount from the security deposit.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. 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.

I order that the Landlord retain the amount of \$50.00 from the security **deposit**.

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 04, 2012.

Residential Tenancy Branch