



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 the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The tenant testified that the landlord's representatives handed him two different 10 Day Notices to End Tenancy for Unpaid Rent (the 10 Day Notice or Notices) on January 10, 2012 and January 20, 2012. The second of these 10 Day Notices was entered into written evidence by the landlord. The tenant also confirmed that the landlord's representative MM handed him a copy of the landlord's dispute resolution hearing package on January 30, 2012. I am satisfied that the landlord has served these documents to the tenant in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent on the basis of the 10 Day Notice entered into written evidence by the landlord? Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The tenant took occupancy in this periodic tenancy on January 1, 2012. Monthly rent was set at \$1,175.00, payable in advance on the first of each month. Although the tenancy agreement required a \$587.50 security deposit from the tenant, the tenant's security deposit cheque and his initial month's rent cheque for January 2012 was returned by the bank as non-negotiable. The tenant did not dispute the landlord's written and oral testimony that he has not paid his security deposit or any rent towards this tenancy. He said that he is planning to vacate the premises within the next week as soon as he finds alternate accommodation.

Analysis

The tenant failed to pay the January 2012 rent within five days of receiving the 10 Day Notice on January 20, 2012. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of receiving that 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by January 30, 2012. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed evidence before me, I find that the landlord is entitled to a monetary award of \$1,175.00 for unpaid rent for each of January and February 2012, a total of \$2,350.00. As the landlord has been successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee for this application.

Conclusion

I provide the landlord with a formal copy of an Order of Possession to take effect within 2 days of the landlord's service of this notice to the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour in the amount of \$2,400.00, which allows the landlord to recover unpaid rent for January and February 2012 plus the recovery of the filing fee for this application.

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: February 17, 2012

Residential Tenancy Branch