



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, 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.

The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing by registered mail. I found that the tenant had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issue(s) to be Decided

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

Background and Evidence

This tenancy began November 1, 2006 with monthly rent of \$1250.00 and the tenant paid a security deposit of \$625.00.

On February 28, 2012 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause: the tenant is repeatedly late paying rent. The tenant has not filed to dispute this notice.

The landlord testified that the tenant paid the November, December 2011, January, February and March 2012 rent late and after being served with the notice to end tenancy for cause the tenant then did not pay the \$1250.00 April 2012 rent.

The landlord stated that the tenant paid his rent on time for the first 6 months of the tenancy but has consistently been paying his rent late since mid 2007.

The landlord in this application is seeking \$1250.00 compensation for the unpaid April 2012 rent and an order of possession effective April 30, 2012.

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 and a monetary order for unpaid rent.

The landlord has also established that the tenant has repeatedly been late paying the rent and that the rent has been late every month for the past 5 months which is sufficient to uphold the 1 month notice to end tenancy for cause.

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, April 30, 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 \$1250.00 in unpaid rent and late fees. 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 amount of **\$1300.00**.

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: April 18, 2012

Residential Tenancy Branch