



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, CNR, MT, FF

Introduction

This hearing was convened in response to cross applications.

The Landlord filed an Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Landlord stated that he personally served copies of the Application for Dispute Resolution and Notice of Hearing to the Tenant on May 11, 2012. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

The Tenant filed an Application for Dispute Resolution, in which the Tenant has made application for more time to set aside a Notice to End Tenancy. The Landlord stated that this Application for Dispute Resolution has not been served to him. As the Tenant has not appeared in support of her Application for Dispute Resolution and there is no evidence to show that she served it to the Landlord, I find that she has failed to diligently pursue her Application and it is being dismissed without leave to reapply.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent; whether the Landlord is entitled to a monetary Order for unpaid rent; and whether the Landlord is entitled to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 55, 67, and 72(1) of the *(Act)*.

Background and Evidence

The Landlord stated that he allowed this Tenant and a co-tenant to move into the rental unit on March 18, 2012; that they had a verbal agreement that they would pay monthly rent of \$900.00 by the first day of each month, effective April 01, 2012; and that only \$450.00 of the rent that was due on May 01, 2012 has been paid.

The Landlord stated that on May 03, 2012 he personally served the Tenant with a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of May 13, 2012.

Analysis

Based on the evidence presented by the Landlord and in the absence of evidence to the contrary, I find that the Tenant and a co-tenant entered into a verbal tenancy agreement with the Landlord that required them to pay monthly rent of \$900.00 by the first day of each month, beginning on April 01, 2012.

Based on the evidence presented by the Landlord and in the absence of evidence to the contrary, I find that only \$450.00 of the rent that was due on May 01, 2012 has been paid. As the Tenant is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$450.00 in outstanding rent to the Landlord.

If rent is not paid when it is due, a tenancy may be ended pursuant to section 46 of the *Act*. Based on the evidence presented by the Landlord and in the absence of evidence to the contrary, I find that the Tenant was served with a Notice to End Tenancy on May 03, 2012 that directed the Tenant to vacate the rental unit by May 13, 2012, pursuant to section 46 of the *Act*. I therefore find that the Landlord has grounds to end this tenancy pursuant to section 46 of the *Act* and that he is entitled to an Order of Possession.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$500.00, which is comprised of \$450.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

Based on these determinations I grant the Landlord a monetary Order for the amount of \$450.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia 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: May 31, 2012.

Residential Tenancy Branch