



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 for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by an agent for the landlord and an agent for the tenant.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on October 2, 2009 for a 1 year fixed term tenancy beginning on November 1, 2009 that converted to a month to month tenancy on November 1, 2012 for the monthly rent of \$1,800.00 due on the 1st of each month and a security deposit of \$900.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on April 24, 2012 with an effective vacancy date of May 3, 2012 due to \$1,800.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the months of April and May 2012 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent personally on April 24, 2012.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days.

The tenant's agent testified that he had done some work on the property for the landlord totalling \$1,800.00 and that was completed based on a verbal agreement. The tenant

provided no evidence or testimony that the work was to be completed as part of the tenancy agreement but rather that if the landlord had paid him for the work he would have been able to pay the rent. The landlord's agent testified she was not aware of any work arrangements between the landlord and tenant.

Analysis

I have reviewed all documentary evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on April 24, 2012 and the effective date of the notice was May 3, 2012. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find 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. In addition, I find that if the tenant did have a work agreement with the landlord there is no evidence before me in this hearing that confirms that any work agreement is a component of the tenancy agreement.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$3,650.00** comprised of \$3,600.00 rent owed and the \$50.00 fee paid by the landlord for this application. I order the landlord may deduct the security deposit held in the amount of \$900.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$2,750.00**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 24, 2012.

Residential Tenancy Branch