



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent, and a Monetary Order for unpaid rent.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and if so for what amount?

Background and Evidence

The rental unit consists of an apartment in a multi-unit complex. Pursuant to a written agreement, the month to month tenancy started in 2005. The rent is \$710.00 per month and the tenant paid a security deposit of \$300.00 which, according to the Residential Tenancy branch interest calculator, has accrued \$10.64 to the date of this hearing for a deposit totalling \$310.64.

The landlord testified that the tenant did not pay rent for April and May 2012. In his documentary evidence, the landlord provided a copy of the 10 Day Notice to End Tenancy served on the tenant in person on April 3, 2012, showing rental arrears of

\$1391.00. The tenant provided a different version of the same notice, showing rental arrears of \$710.00. It was not disputed at the hearing that since issuing the notice to end tenancy, the tenant paid \$681.00 towards the arrears and that the correct amount is the amount of \$710.00.00 as reflected on the tenant's notice.

The parties also did not dispute that May rent is not paid yet, and the landlord is seeking a monetary order for April and May 2012 totalling \$1420.00.

Analysis

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a notice to end tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenant in this matter has not filed an application for dispute resolution. The landlord's Notice to End Tenancy is valid and on that basis the landlord is entitled to an order of possession.

Based on the evidence I also find that the tenant owes rent for April and May 2012, and that the landlord is entitled to recover the loss of rental income for these two months.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant.

This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord established a claim of \$1420.00. I authorize the landlord to retain the tenant's \$310.64 security deposit for a balance owing of \$1119.36 and pursuant to Section 67 of the Act, I grant the landlord a Monetary Order totalling \$1119.36.

This Order may be registered in the 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 08, 2012.

Residential Tenancy Branch