



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent as well as to recover the filing fee for this proceeding.

The Landlord's agent said she served the Tenant with the Application and Notice of Hearing (the "hearing package") both in person and by registered mail on May 14, 2012. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issue(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?

Background and Evidence

This tenancy started on April 1, 2006. Rent is \$850.00 per month payable in advance on the 1st day of each month. The Tenant paid a security deposit of \$425.00 at the beginning of the tenancy.

The Landlord's agent said the Tenant had previous rent arrears of \$180.00 and did not pay rent for May 2012 when it was due and as a result, on May 3, 2012 the Landlord's agent served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated May 3, 2012 by posting it to the rental unit door. The Landlord's agent said the Tenant has not paid any of the rent arrears.

Analysis

Section 46(4) of the Act states that within 5 days of receiving a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must either pay the overdue rent or (if they believe the amount is not owed) apply for dispute resolution. If a Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to

have accepted that the tenancy will end on the effective date of the Notice and they must vacate the rental unit at that time.

I find that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on May 3, 2012 when it was posted to the rental unit door. Under s. 90 of the Act, the Tenant is deemed to have received the Notice three days later or on May 5, 2012. Consequently, the Tenant would have had to pay the amount of rent alleged to be owed on the Notice or apply to dispute that amount no later than May 10, 2012. I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 2 days after service of it on the Tenant.

I also find that the Landlord is entitled to recover rent arrears of \$30.00 from 2011, \$150.00 from January 2012 and \$850.00 for May 2012 for a total of \$1,030.00. I further find that the Landlord is entitled pursuant to s. 72 of the Act to recover from the Tenant the \$50.00 filing fee for this proceeding.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of **\$1,080.00** have been issued to the Landlord. A copy of the Orders must be served on the Tenant; the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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 28, 2012.

Residential Tenancy Branch