



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR; MNR; FF

Introduction

This is the Landlord's application for an Order of Possession; a Monetary Order for unpaid rent; and to recover the cost of the filing fee from the Tenant.

The parties gave affirmed testimony at the Hearing.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to a Monetary Order for unpaid rent and utilities in the amount of \$978.00?

Background and Evidence

The Landlord gave the following testimony:

Monthly rent is \$800.00 per month, due the first day of each month. Rent does not include utilities. A security deposit in the amount of \$400.00 was required at the beginning of the tenancy, but the Tenant has not paid it. The Tenant has fallen behind in rent payments and has not paid utilities in the amount of \$179.18. The Landlord provided copies of the utility bills in evidence. The Tenant has made the following payments towards rent from January, 2012 to April, 2012:

Date and amount due	Amount paid	Balance owing
January 2012, \$800.00	\$600.00	\$200.00
February 2012, \$800.00	\$800.00	\$200.00
March 2012, \$800.00	\$800.00	\$200.00
April 2012, \$800.00	\$600.00	\$400.00

The Landlord served the Tenant with a Notice to End Tenancy by handing the Notice to the Tenant on April 1, 2012, after the Tenant only paid \$600.00 for rent for the month of April, 2012.

The Landlord asked for an Order of Possession, effective May 15, 2012.

The Tenant gave the following testimony:

The Tenant agreed with the amounts of rent that the Landlord provided above. Rent is \$600.00 per month. The Tenant gave the Landlord a security deposit in the amount of \$300.00 in November, 2011. The Tenant receives disability payments and sent "Intent to Rent" forms to the Ministry which indicates that monthly rent is \$600.00. The tenancy agreement that the Landlord provided in evidence was backdated and does not reflect the agreement that the parties entered into at the beginning of the tenancy. The Tenant faxed copies of the "Intent to Rent" form and the stub for the \$300.00 security deposit to the Residential Tenancy Branch on May 3, 2012.

The Tenant agreed that he had not paid utilities, but stated that he had not been provided copies of the utility bills until he received the Landlord's documentary evidence.

Analysis

Based on the testimony of both parties, I accept that the Landlord served the Tenant with the Notice to End Tenancy on April 1, 2012. The Notice indicates that the Tenant owes \$200.00 unpaid rent. The Tenant did not pay the arrears, or file for dispute resolution, within 5 days of receiving the documents. Therefore, pursuant to the provisions of Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended on April 10, 2012. The Landlord is entitled to an Order of Possession and I make that Order effective 1:00 p.m. May 15, 2012.

The Tenant testified that he faxed documentary evidence to the Residential Tenancy Branch on May 3, 2012. The evidence was not on the case file at the time of the Hearing. The Tenant did not dispute that he had paid \$800.00 for February and March, 2012. The Tenant agreed that he signed the tenancy agreement that states rent is \$800.00 per month. I find that the Tenant failed to provide documentary evidence to support his claim that rent was \$600.00 per month. Based on the testimony of both parties, I find that the Landlord has established a monetary claim for unpaid rent in the amount of \$400.00.

The Tenant acknowledged that he had not paid utilities and I find that the Landlord is entitled to a monetary award in the amount of \$179.18 for the unpaid utilities.

The security deposit, if any, remains available on application by either party, to be administered in accordance with the provisions of the Act.

The Landlord has been successful in its application and I find that he is entitled to recover the cost of the \$50.00 filing fee from the Tenant.

I hereby provide the Landlord a Monetary Order, calculated as follows:

Unpaid rent	\$400.00
Unpaid utilities	\$179.18
Recovery of the filing fee	<u>\$50.00</u>
TOTAL AMOUNT DUE TO THE LANDLORD	\$629.18

Conclusion

I hereby provide the Landlord an Order of Possession effective **1:00 p.m., May 15, 2012**. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby provide the Landlord a Monetary Order in the amount of **\$629.18** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims) 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 07, 2012.

Residential Tenancy Branch