



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR and MNR

This application was brought by the landlord on May 10, 2012 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by posting on the tenant's door on March 14, 2012. The landlord also sought a Monetary Order for unpaid rent.

Despite having been served with the Notice of Hearing, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

However, at the commence of the tenancy the landlord advised that she had spoken with the tenant shortly before the hearing and he advised her that he had paid all rent arrears and provided a confirmation number to that effect. The landlord stated she had been unable to confirm payment just yet, but believed and hoped that the payment would be verified shortly.

She stated that, if the arrears has been paid, she will reinstate the tenancy and will not enforce any orders issued as a result of this hearing. However, in the event the arrears has not been paid, the landlord requested that the hearing proceed on the evidence and the orders be issued if found to be warranted.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order as requested. .

Background and Evidence

This tenancy began on February 1, 2011 and rent is \$569 per month and there is no security deposit.

During the hearing, the landlord's agent gave evidence, supported by a copy of the tenants that the Notice to End Tenancy dated March 13, 2012 was served when the tenant had failed to pay the rent due on March 1, 2012.

In the interim, the tenant has not paid the rent for April or May 2012 and remains in the rental unit.

Therefore, she requested an Order of Possession and a Monetary Order for the unpaid rent to be enforced only if the account has not been settled as the tenant had stated.

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due.

Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenant did not pay the rent within five days of receiving the notice and did not make application to dispute it.

Therefore, under section 46(5) of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy which was March 27, 2012 taking into account the three days deemed service of notice served by posting..

Accordingly, I find that the landlord is entitled to an Order of Possession to take effect two days from service of it on the tenant.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent and as follows:

Rent for March 2012	\$ 569.00
Rent for May 2012	569.00
TOTAL	\$1707.00

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect two days from service.

The landlord's copy of this decision is also accompanied by a Monetary Order for **\$1707.00**, enforceable through the Provincial Court of British Columbia, for service on the tenant.

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: June 04, 2012.

Residential Tenancy Branch