



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC and FF

This application was brought by the landlord on May 7, 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 April 18, 2012. The landlord also sought a Monetary Order for unpaid rent and loss of rent and recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing sent by registered mail on May 7, 2012, 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.

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 January 1, 2012. Rent is \$3,000 per month and there is no security deposit.

During the hearing, the landlord's agent gave evidence that the Notice to End Tenancy of April 18, 2012 was served when the tenant had a rent arrears of \$1,000 from March 2012 and \$2,000 from April 2012. In the interim, the tenant has paid none of the \$3,000 rent for May 2012.

The agent stated that the tenant has now vacated the rental unit but a number of occupants remain in the rental unit. Therefore, she requested an Order of Possession as soon as possible and a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding.

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 May 1, 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 and/or occupants.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding. However, given that it is early in the month and possible that the landlord will be able to gain vacant possession and find new tenants in the month, I must decline to award on the claim of loss of rent for June 2012 due to uncertainty as to the amount. The Monetary Order is calculated as follows:

Rent arrears for March 2012	\$1,000.00
Rent for May 2012	3,000.00
Filing fee	<u>50.00</u>
TOTAL	\$6,050.00

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 **\$6,050.00**, enforceable through the Provincial Court of British Columbia, for service on the tenant.

The landlord remains at liberty to make application for the loss of rent and any further damage or losses as may be ascertained following the conclusion of the tenancy.

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 01, 2012.

Residential Tenancy Branch