



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order of possession for the rental unit, a monetary order for unpaid rent and to recover the filing fee.

The landlord and his daughter, who served as translator, appeared and gave affirmed testimony.

The landlord testified that he served the tenant with the application for dispute resolution and notice of hearing by personal delivery on May 15, 2012. The landlord stated that he had witnesses present with him when he served the tenant.

I find the tenant was served in a manner complying with section 89 of the Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present his evidence orally and in documentary form.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for the rental unit, a monetary order for unpaid rent and for recovery of the filing fee?

Background and Evidence

Although no tenancy agreement was entered into evidence, the landlord testified that this month to month tenancy began on January 1, 2012, monthly rent is \$750.00, and a security deposit of \$375.00 was paid by the tenant at the beginning of the tenancy, on or about December 22, 2011.

The landlord gave affirmed testimony and supplied evidence that on May 9, 2012, he served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice"),

by personal delivery, with witnesses in attendance. The Notice stated the amount of unpaid rent was \$1500.00. The effective move out date listed on the Notice was May 19, 2012.

The Notice informed the tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the tenant had five days to dispute the Notice.

The landlord provided evidence that the tenant has not made any rent payments since issuance of the Notice and currently owes unpaid rent of \$2250.00 through the date of the hearing.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

I have no evidence before me that the tenant applied to dispute the Notice.

I find the tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find that the landlord is entitled to an order of possession effective two days after service on the tenant.

I am enclosing the order of possession with the landlord's Decision. This order is a legally binding, final order, and may be filed in the Supreme Court of British Columbia should the tenant fail to comply with this order of possession.

I find that the landlord has established a total monetary claim of \$2300.00 comprised of outstanding rent of \$2250.00 and the \$50.00 filing fee paid by the landlord for this application.

I grant the landlord a monetary order under authority of section 67 of the Act for \$2300.00.

I am enclosing a monetary order for \$2300.00 with the landlord's Decision. This order is a final, legally binding order, and may be filed in the Provincial Court of British Columbia (Small Claims) should the tenant fail to comply with this monetary order.

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 06, 2012.

Residential Tenancy Branch