



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR and MNR

Introduction

This application was brought by the landlord on July 10, 2012 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served in person on June 2, 2012. The landlord also sought a Monetary Order for unpaid rent.

Both parties participated in the telephone conference call hearing and were given the opportunity to give and respond to evidence.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession in support of the Notice to End Tenancy and a Monetary Order for the unpaid rent.

Background and Evidence

This tenancy began on April 1, 2012 according to evidence given at the hearing by the landlord. Rent is \$375 per month and there is no security deposit.

During the hearing, the landlord gave uncontested evidence that the 10-day Notice to End Tenancy was served on June 2, 2012 after the tenant had a rent shortfall of \$275 for April 2012, the first month of the tenancy, and he had paid no rent for May and June 2012.

In the interim, the tenant remains in the rental unit and has not paid the rent for July 2012. Therefore, the landlord requested the Order of Possession in support of the Notice to End Tenancy and a Monetary Order for the unpaid rent.

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 has not paid the rent and did not make application to contest the notice. 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 June 12, 2012.

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 calculated as follows:

April 2012 rent shortfall	\$275.00
June 2012 rent	375.00
July 2012 rent	<u>375.00</u>
TOTAL	\$1,400.00

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 of it on the tenant.

The landlord's copy of this decision is also accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$1,400.00 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: July 26, 2012.

Residential Tenancy Branch