



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 pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:11 a.m. in order to enable him to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that he handed the tenant a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on August 23, 2012. He entered into written evidence a copy of the 10 Day Notice. The landlord also testified that he handed the tenant a copy of his dispute resolution hearing package on September 4, 2012. I am satisfied that the landlord served both of these documents to the tenant in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent? Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord testified that this tenancy started on or about October 1, 2011, by way of an oral agreement with the tenant. He testified that monthly rent is set at \$425.00, payable in advance on the 15th of each month. No security or pet damage deposit was secured by the landlord for this tenancy.

The landlord's 10 Day Notice identified \$1,375.00 as owing from this tenancy as of September 4, 2012. The landlord testified that this amount was comprised of \$100.00 that remained owing for the period from May 15 to June 15, 2012, and \$425.00 for each of the rent periods commencing on June 15, July 15, and August 15, 2012. The landlord testified that the tenant has not made any payments to the landlord since the

10 Day Notice was issued to the tenant. Although another \$425.00 became due on September 15, 2012, the landlord said that he was not seeking recovery of that amount at this time. He limited the amount of his requested monetary award to \$1,375.00 plus the recovery of his \$50.00 filing fee for this application.

Analysis

The tenant failed to pay the rent identified as owing in full within five days of receiving the 10 Day Notice. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of receiving the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenant's failure to take either of these actions within five days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by September 3, 2012. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed evidence submitted by the landlord, I find that the landlord is entitled to a monetary award of \$1,375.00 for unpaid rent and \$50.00 for the recovery of his filing fee for this application.

Conclusion

I provide the landlord with a formal copy of an Order of Possession to take effect within 2 days of the landlord's service of this notice to the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour under the following terms which allows the landlord to recover unpaid rent and the filing fee for this application:

| Item | Amount |
|---|-------------------|
| Unpaid Rent Owing as of June 14, 2012 | \$100.00 |
| Unpaid Rent Owing as of June 15, 2012 | 425.00 |
| Unpaid Rent Owing as of July 15, 2012 | 425.00 |
| Unpaid Rent Owing as of August 15, 2012 | 425.00 |
| Recovery of Filing Fee for this application | 50.00 |
| Total Monetary Order | \$1,425.00 |

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to

comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: October 15, 2012

Residential Tenancy Branch