



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

At the outset of the hearing the Landlord applied to have this hearing joined with another Application for Dispute Resolution, in which the Landlord has applied for a monetary Order of \$12,000.00. A hearing for this Application has been scheduled for April 08, 2013.

The Agent for the Landlord with the initials "T.V." stated that Application for Dispute Resolution #804022 and documents the Landlord wishes to rely upon as evidence for those proceedings were sent to the Tenant, via registered mail, on January 16, 2013. The Tenant stated that he has not yet received those documents and he was not aware that the Landlord was seeking a monetary Order for any amount.

As the Tenant was not aware that the Landlord was seeking a monetary Order, I decline the join this file with the other Application for Dispute Resolution. That application will be considered at the scheduled hearing on April 08, 2013, at which time the amount of outstanding rent will be determined.

The Agent for the Landlord with the initials "T.V." stated that this Application for Dispute Resolution and documents the Landlord wishes to rely upon as evidence for those proceedings were sent to the Tenant, via registered mail, on January 04, 2013. The Tenant acknowledged receiving some documents for these proceedings, which he did not have with him at the time of the hearing, so he is not certain precisely what he received in that package. As the Tenant cannot dispute that he received the documents the Landlord alleges were sent on January 04, 2013, the documents submitted to the Residential Tenancy Branch on January 07, 2013 have been accepted as evidence for these proceedings.

Both parties were represented at the hearing. They were provided with the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 55, and 72 of the *Residential Tenancy Act (Act)*?

Background and Evidence

The Landlord and the Tenant agree that this tenancy began in October of 2012 and that the tenancy agreement required the Tenant to pay monthly rent of \$3,000.00.

The Landlord and the Tenant agree that the Applicant is not the Landlord named on the tenancy agreement. The Agent for the Landlord with the initials "T.V." stated that her company is managing the rental unit for the Landlord named on the tenancy agreement, which the Tenant did not dispute.

The Agent for the Landlord with the initials "T.V." stated that she and another employee posted a Ten Day Notice to End Tenancy for Unpaid Rent, which had a declared effective date of December 21, 2012 on the door of the rental unit on December 11, 2012. The Tenant acknowledged finding the Notice posted on his door on December 11, 2012 or December 12, 2012. The Notice declared the Tenant owed \$3,000.00 in rent.

The Tenant stated that he intends to vacate the rental unit and he did not dispute the Notice to End Tenancy.

Analysis

On the basis of the undisputed evidence, I find that by December 12, 2012 the Tenant had received a Ten Day Notice to End Tenancy for Unpaid Rent, which declared that the Tenant must vacate the rental unit by December 21, 2012, pursuant to section 46 of the *Act*.

Section 46 of the *Act* stipulates that a tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the Notice to End Tenancy if the tenant does not either pay the outstanding rent or file an Application for Dispute Resolution to dispute the Notice within five days of receiving the Notice to End Tenancy. In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the

tenancy has ended. On this basis I find that the Landlord is entitled to an Order of Possession.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I hereby grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$50.00, in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for the amount of \$50.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order 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: January 29, 2013

Residential Tenancy Branch

