



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GREEN VALLEY MOTEL
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OPR, MNR, MND, FF

Introduction

This matter dealt with an application by the Landlords for an Order of Possession and a Monetary Order for unpaid rent, for compensation for damage to the unit site or property and to recover the filing fee for this proceeding.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by personal delivery on January 31, 2013. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with all parties present.

At the start of the conference call the Landlord said he is withdrawing the damage claims in the amount of \$400.00.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Is the Landlord entitled to compensation for unpaid rent and if so how much?

Background and Evidence

This tenancy started on December 28, 2012 as a month to month tenancy. Rent is \$800.00 per month payable in advance of the 1st day of each month. No security deposit was required or paid.

The Landlord said that the Tenant did not pay \$800.00 of rent for January, 2013 when it was due and as a result, on January 18, 2013 he posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated January 18, 2013 on the door of the Tenant's rental unit. The Landlord said the Tenant has unpaid rent for February, 2013 in the amount of \$800.00 as well.

The Landlord further indicated that the Tenant is living at the rental unit and the Landlord requested an Order of Possession for as soon as possible if his application is successful.

The Landlord also sought to recover the \$50.00 filing fee for this proceeding.

The Tenant said he has not paid the rent for January and February as the Landlord needs to complete some paper work for his pension payments. The Tenant said he receives \$375.00 per month from the pension and he will put this amount towards his rent. The Tenant continued to say he would like to the middle of March, 2013 to move out as he has a dog and it is difficult to find accommodations that will accept dogs.

The Tenant said in closing that he understands that he will be evicted because he has not paid the rent and Tenant said the Landlord is a good guy and he is only doing his job.

The Landlord said in closing that he wants to end the tenancy as soon as possible so that he can rent to unit to a new tenant as he is losing rent with this tenant.

Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy 3 days after it was posted, or on January 21, 2013. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than January 26, 2013.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

I also find that the Landlord is entitled to recover unpaid rent for January, 2013, in the amount of \$800.00 and February, 2013 in the amount of \$800.00.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 72 of the Act the Landlord will receive a monetary order for the balance owing as following:

Rent arrears:	\$1,600.00	
Recover filing fee	\$ 50.00	
Subtotal:		\$1,650.00
Balance Owing		\$1,650.00

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$1,650.00 have been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court of British Columbia and the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: February 26, 2013

Residential Tenancy Branch

