



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent and the recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended the hearing and have confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been properly served.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Background, Evidence and Analysis

The Landlord seeks a monetary order for \$2,610.00 consisting of rent arrears for February, March and April of 2013 at \$870.00 per month.

The Landlord states that the Tenants were served with a 10 day notice to end tenancy issued for unpaid rent dated February 5, 2013 on by posting it on the rental unit door on February 7, 2013. The notice states an effective date of February 15, 2013 and that rent of \$870.00 was due on February 1, 2013 and was unpaid. The Tenant has confirmed receiving the notice in his direct testimony.

Both parties agreed that the Tenant proposed a payment plan in a letter dated February 7, 2013 for the rent in which the Tenant would pay \$435.00 for February and again in March for \$435.00 and that the Tenant would make up the balance by adding \$200.00 to the next months rent until the balance was paid. Both parties agreed that the Tenant did not follow through on this payment plan. The Tenant states that he forgot to send the payments to the Landlord.

The Landlord states that no rent was paid for March 2013, but that a partial payment of \$500.00 was paid by the Tenant in March that was applied to the rent arrears for

February. The Tenant has confirmed in his direct testimony that no rent was paid because he lost his job and needed to decide between food or rent. Both parties have confirmed that a receipt was issued for \$500.00 for use and occupancy only.

I find based upon the evidence provided that the Tenant was properly served with the 10 day notice to end tenancy dated February 5, 2013 by posting it to the rental unit door as confirmed in the direct testimony of the Tenant. The Tenant failed to pay the rent within the allowed 5 days or file an application for dispute resolution to dispute the notice. The Tenant is presumed to have accepted that the Tenancy was at an end. The Landlord is granted an order of possession. The order of possession must be served upon the Tenants. Should the Tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary claim, I find that the Landlord's monetary claim for April 2013 of \$870.00 is premature as of the date of this hearing and is dismissed with leave to reapply. The Landlord has established a monetary claim of \$1,240.00 consisting of partial rent arrears for February (\$370.00) and March (\$870.00). The Landlord is also entitled to recovery of the \$50.00 filing fee. I grant a monetary order under section 67 for the balance due of \$1,290.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted an order of possession and a monetary order for \$1,290.00

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: March 28, 2013

Residential Tenancy Branch

