



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPB, MNR, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession, a Monetary Order for unpaid rent and utilities 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 posting it on the door on May 2, 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 in the Tenant’s absence.

Issues(s) to be Decided

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

Background and Evidence

This tenancy started on November 3, 2012 as a fixed term tenancy with an expiry date of April 30, 2013. Rent is \$1,200.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$600.00 on November 21, 2012.

The Landlord said that the Tenant has unpaid utilities of \$413.47 as of February 22, 2013. The Landlord said he wrote the Tenant a letter requesting the unpaid utilities of \$413.47 be paid immediately. The Landlord continued to say that the Tenant has additional unpaid utilities in the amount of \$299.99 for March, 2013. The Landlord said he included these utility bills in the evidence package and the bills have been paid. The total claim for unpaid utilities is \$713.46.

The Landlord continued to say that the tenancy agreement states the tenancy ends on April 30, 2013 and the Landlord said he wrote a letter to the Tenant on March 29, 2013 confirming the tenancy would end on April 30, 2013. The Landlord said the letter confirmed that the Tenant would have to move out of the rental unit as stated in the tenancy agreement. The Landlord requested an Order of Possession for as soon as possible.

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

Analysis

Section 44 (b) of the Act states that a tenancy will end on the expiry date in a fixed term tenancy if the parties have agreed in the tenancy agreement to end the tenancy on that date and the tenant and landlord have agreed that the tenant is to move out.

The Tenant has a copy of the tenancy agreement and the letter dated March 29, 2013 confirming the tenancy ended on April 30, 2013. The tenancy agreement states the tenancy ends on April 30, 2013 and the Tenant and Landlord have initialed the part of the agreement that states the Tenant will move out of the rental unit at the end of the tenancy. Consequently, I find the Landlord has established grounds to be awarded an Order of Possession with an effective vacancy date for 2 days after service of the Order on the Tenant.

Section 26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has the right under this Act to deduct all or a portion of the rent. Unpaid utilities are treated as unpaid rent if the Landlord formally demands payment of the utilities 30 days after the utilities are due.

I find that the Landlord is entitled to recover unpaid utilities in the amount of \$713.46 as the Landlord has testified that the Tenant has not paid these utilities, the utilities are part of the tenancy agreement and the Landlord provided paid receipts for utilities in the amount of \$713.46. I award the Landlord \$713.46 for unpaid utilities.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenants the \$50.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

Unpaid Utilities	\$ 713.46	
Recover Filing Fee	<u>\$ 50.00</u>	
Subtotal		\$ 763.46
Balance Owing		<u>\$ 763.46</u>

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$763.46 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: May 28, 2013

Residential Tenancy Branch

