



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR & FF

Introduction

A hearing was conducted by conference call in the presence of a representative of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the Notice to End Tenancy was personally served on the Tenant on April 2, 2013. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the Tenant on April 9, 2013. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenancy began on March 2, 2009. The present rent is \$500 per month payable on the first day of each month. The tenant paid a security deposit of \$250 at the start of the tenancy.

The tenant failed to pay all of the rent when due on April 1, 2012 and the landlord served a 10 day Notice to End Tenancy on the Tenant. The arrears in the sum of \$100

was finally paid on April 27, 2013 and it was accepted by the landlord for “use and occupation only.”

The tenant has failed to pay all of the rent for May and the sum of \$25 remains outstanding.

The landlord testified the tenant has been late paying the rent for the last 6 months. The problem resulted after the tenant instructed the Ministry of Social Services to pay the monies for rent to the tenant rather than to the landlord.

The landlord stated that he seeks an Order for Possession at this time plus the monetary order. However, he has entered into an agreement with the tenant that he will reinstate the tenancy and will not rely on the Order for Possession if the tenant instructs the Ministry to pay the rent directly to the landlord. He stated that he is waiting for the rent cheque for June to arrive some time today but it has not yet received it.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. Accordingly, I granted the landlord an Order for Possession effective May 31, 2013.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Analysis - Monetary Order and Cost of Filing fee

I determined the tenant has failed to pay the rent for the month(s) of May and the sum of \$25 remains outstanding. I order that the Tenant pay to the Landlord the sum of \$25.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: May 22, 2013

Residential Tenancy Branch

