



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter dealt with an application by the Landlord for An Order of Possession and a Monetary Order for unpaid rent

The Landlord said she served the Tenant with the Application and Notice of Hearing (the “hearing package”) by personal delivery on October 28, 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. Are there rent and utility arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and utilities and if so how much?
3. Is the Landlord entitled to end the tenancy?

Background and Evidence

This tenancy started on November 1, 2011 as a month to month tenancy. Rent is \$400.00 per month payable in advance of the 1st day of each month. No security deposit was required. The Landlord said the Tenant is living in the rental unit and she requested an Order of Possession with an effective date as soon as possible.

The Landlord said that the Tenant did not pay \$400.00 of rent for each month of January, February, March, May and September, 2013, for a total of \$2,000.00, when it was due and as a result, on September 15, 2013 she posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated September 16, 2013 on the Tenant’s door. The Landlord continued to say that the Tenant also has unpaid rent for December, 2013 in the amount of \$400.00.

The Landlord said The Tenant also has unpaid utilities of \$564.00 that were included on the 10 Day Notice to End Tenancy dated September 16, 2013. The Landlord continued to say that there are additional unpaid utilities for October, November and December, 2013 and she will apply for these amounts in the future.

The Landlord said her total claim is for \$2,400.00 in unpaid rent and \$546.00 in unpaid utilities.

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 three days after it was posted on the Tenant's door, or on September 18, 2013. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than September 23, 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 in the amount of \$2,400.00 and unpaid utilities in the amount of \$564.00 for a total monetary order of \$2,964.00.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$2,964.00 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: December 16, 2013

Residential Tenancy Branch

