



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession, a Monetary Order for unpaid rent and to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the “hearing package”) by registered mail on June 11, 2014. 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 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 November 1, 2013 as a month to month tenancy. Rent is \$1,600.00 per month payable in advance of the 1st day of each month. The Tenant did not pay a security deposit.

The Landlord said that the Tenant did not pay \$950.00 of rent and \$146.00 for Utilities in January, 2014 and the Tenant has unpaid rent of \$1,600.00 for each month of February, March, April, May, June and July, 2014. As a result of the unpaid rent in May, 2014 the Landlord issued a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated May 26, 2014. The Landlord said the total amount of her claim is \$1,096.00 for January, 2014 and 6 months of rent from February to July, 2014 in the amount of \$9,600.00 for a total claim of \$10,696.00 plus the \$100.00 filing fee.

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.

Further the Landlord said the Tenant is not communicating with them and is uncooperative.

The Landlord also sought to recover the \$100.00 filing fee for this proceeding.

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 on the same day as received by personal delivery or on May 26, 2014. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than May 31, 2014.

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 and utilities for January, 2014, in the amount of \$1,096 and unpaid rent in the amount of \$9,600.00 for the months from February through to July, 2014.

As the Landlord has been successful in this matter, she is also entitled to recover from the Tenant the \$100.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

January, 2014 unpaid rent and utilities	\$1,096.00	
Rent arrears February to July, 2014:	\$9,600.00	
Recover filing fee	\$ 100.00	
Subtotal:		\$10,796.00
Balance Owing		\$10,796.00

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$10,796.00 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: July 21, 2014

Residential Tenancy Branch

