



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KASHMIR HAYER
and [tenant name suppressed to protect privacy]

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 application.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the “hearing package”) by registered mail on November 17, 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. Are there rent arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid rent and if so how much?
3. Is the Landlord entitled to end the tenancy?

Background and Evidence

This tenancy started on February 1, 2009 as a month to month tenancy. Rent is \$800.00 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 he requested an Order of Possession with an effective vacancy date for as soon as possible.

The Landlord said that the Tenant did not pay \$240.00 of rent for July, 2014, and \$800.00 of rent for each month of August, September, October and November, 2014 when it was due and as a result, on November 7, 2013, 2010 he personally delivered a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated November 7, 2014 to the Tenant.

The Landlord said his total claim is for \$3,440.00 for unpaid rent and to recover the filing fee of \$50.00.

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 day it was served, or on November 7, 2014. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than November 12, 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 for July through to November in the amount of \$3,440.00.

As the Landlord has been successful in this matter I order the Landlord to recover the filing fee for this proceeding from the Tenant in the amount of \$50.00. The Landlord has received a monetary Order as follows:

Unpaid rent	\$3,440.00
Filing Fee	\$ 50.00
Total	\$3,490.00
Balance owing	\$3,490.00

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$3,490.00 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: November 25, 2014

Residential Tenancy Branch

