



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNR, OPR, MNR, MNDC, FF

Introduction

This hearing was convened in response to cross applications,

The Landlord filed an Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, a monetary Order for money owed or compensation for damage or loss, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that on April 09, 2015 the Application for Dispute Resolution, the Notice of Hearing and documents the Landlord wishes to rely upon as evidence were personally served to the Tenant. The Tenant acknowledged receipt of these documents and they were accepted as evidence.

The Tenant filed an Application for Dispute Resolution, in which the Tenant applied to cancel a Notice to End Tenancy for Unpaid Rent and to recover the fee for filing this Application for Dispute Resolution.

The Tenant stated that on April 08, 2015 the Application for Dispute Resolution and the Notice of Hearing were personally served to the Landlord. The Landlord acknowledged receipt of these documents and they were accepted as evidence.

Both parties were represented at the hearing. They were provided with the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

Preliminary Matter

With the consent of both parties, the Application for Dispute Resolution was amended to include a claim for unpaid rent for May of 2015, with the proviso that the Tenant could remain in the rental unit until May 31, 2015.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession or should the Notice to End Tenancy be set aside?

Is the Landlord entitled to a monetary Order for unpaid rent?

Background and Evidence

The Landlord and the Tenant agree that:

- this tenancy began on April 01, 2013;
- the Tenant agreed to pay rent of \$1,000.00 by the first day of each month; and
- the Tenant currently owes \$4,200.00 in rent for the period ending May 31, 2015.

The Agent for the Landlord stated that a Ten Day Notice to End Tenancy for Unpaid Rent, which had an effective date of April 14, 2015, was posted on the door of the rental unit on April 04, 2015. The Tenant stated that he located this Notice on April 04, 2015.

The Notice to End Tenancy was not submitted in evidence, however both parties consented to the content of the Notice, including that it was signed by the Landlord and that it declared the Tenant has not paid the rent of \$3,400.00. The Agent for the Landlord stated that the Notice should have declared that only \$3,200.00 in rent was due.

Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay monthly rent of \$1,000.00 by the first day of each month. Section 26(1) of the *Act* requires tenants to pay rent to their landlord when it is due.

On the basis of the undisputed evidence, I find that on April 04, 2015 the Tenant's rent was in arrears by \$3,200.00, which has not yet been paid. As the parties mutually agreed that the Tenant would pay rent for May and continue to occupy the rental unit until the end of May, I find that the Tenant owes the Landlord \$4,200.00

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within ten days, by providing proper written notice. On the basis of the undisputed evidence, I find that the Ten Day Notice to End Tenancy, served pursuant to section 46 of the *Act*, was posted at the rental unit on April 04, 2015.

As rent was not paid when it was due; the Landlord served the Tenant with a Ten Day Notice to End Tenancy; and the Tenant has not still paid the overdue rent, I find that the Landlord has the right to end the tenancy in accordance with section 46 of the *Act*. I therefore dismiss the Tenant's application to set aside the Notice to End Tenancy and I grant the Landlord an Order of Possession.

I find that the Landlord's Application has merit and that the Landlord is entitled to recover the cost of filing an Application for Dispute Resolution. I find that the Tenant's Application has been without merit and I dismiss his claim to recover the cost of filing an Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective at 1:00 p.m. on May 31, 2015. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$4,250.00, which is comprised of \$4,200.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. I grant the Landlord a monetary Order for \$4,250.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims 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 10, 2015

Residential Tenancy Branch

