



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent.

The landlord participated in the teleconference hearing, but the tenant did not call into the hearing. The landlord submitted evidence that they served the tenant with the application for dispute resolution and notice of hearing by registered mail sent on May 4, 2015. Section 90 of the Act states that a document is deemed to have been served five days after mailing. I found that the tenant was deemed served with notice of the hearing on May 9, 2015, and I proceeded with the hearing in the absence of the tenant.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Background and Evidence

The tenancy began on January 1, 2015. Rent in the amount of \$900 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$450. The tenant failed to pay rent in the month of April 2015 and on April 2, 2015 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The landlord stated that \$600 of the tenant's monthly rent is paid by the government, and the tenant did not pay his \$300 portion for April or May 2015. The landlord has claimed \$600 for unpaid rent and \$159.60 for unpaid utilities.

The Landlord's evidence included the following:

- a copy of a residential tenancy agreement, signed by the tenant and the landlord on December 11, 2104, indicating a monthly rent of \$900 due on the first of each month and confirming that the tenant paid a security deposit of \$450;
- a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on April 2, 2015, with an effective vacancy date of April 12, 2015, for failure to pay rent in the amount of \$900 that was due on April 1, 2015;
- testimony that the tenant was personally served the 10 Day Notice to End Tenancy for Unpaid Rent on April 2, 2015;
- testimony that the landlord called the city and was informed that the tenant owed \$159.60 for an unpaid power bill; and
- a copy of the Landlord's amended Application for Dispute Resolution, filed May 6, 2015.

Analysis

I have reviewed all evidence and I accept that the tenant was served with the notice to end tenancy as declared by the landlord.

I accept the evidence before me that the tenant has failed to pay the full rent owed within the five days granted under section 46(4) of the Act. I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. The landlord is therefore entitled to an order of possession.

As for the monetary order, based on the above-noted evidence I find that the landlord has established a claim for \$600 in unpaid rent and lost revenue and \$159.60 for unpaid utilities. The landlord is also entitled to recovery of the \$50 filing fee.

Conclusion

I grant the landlord an order of possession effective two days from service. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The landlord is entitled to \$809.60. I order that the landlord retain the security deposit of \$450 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$359.60. This order may be filed in the 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 21, 2015

Residential Tenancy Branch

