



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR MNR

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order of possession for unpaid rent and utilities pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;

This application was originally heard by way of a Direct Request Proceeding and on March 17, 2016 an interim decision was issued adjourning the application to be reconvened at a participatory hearing.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 9:20 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord testified that on April 6, 2016, he personally served the tenant with a copy of the Application for Dispute Resolution including the Notice of Hearing and Interim Decision.

Based on the above evidence, I am satisfied that the tenant was personally served with the Application for Dispute Resolution, Notice of Hearing and Interim Decision on April 6, 2016 pursuant to section 89 of the Act. The hearing proceeded in the absence of the tenant.

Issues

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

Background and Evidence

A written tenancy agreement was entered into and signed by the parties on October 1, 2015. A copy of the agreement was provided on file. The tenancy began on October 1, 2015 with a monthly rent of \$750.00 payable on the 1st day of each month.

The landlord's application included a claim for a monetary award of \$750.00 for outstanding rent that was payable on March 1, 2016. At the hearing, the landlord asked to amend his claim to include outstanding rent that was payable on April 1, 2016. Although the tenant did not have prior notice of this claim, I found that the tenant should reasonably have known that the landlord would suffer this loss if the tenant neither paid rent nor vacated the rental unit. I therefore allowed the amendment.

The landlord testified that on March 2, 2016 he personally served the tenant with the 10 day Notice to End Tenancy for unpaid rent. A witnessed proof of service of this Notice was provided with the application.

Analysis

I am satisfied that the tenant was personally served with the 10 day Notice to End Tenancy on March 2, 2016 pursuant to section 88 of the Act.

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice, March 12, 2016.

I accept the landlord's uncontested evidence and find that the tenant was obligated to pay monthly rent in the amount of \$750.00 but failed to pay rent for the months of March and April 2016. I accept the landlord's claim for outstanding rent of \$1500.00.

Therefore, I find that the landlord is entitled to an Order of Possession and a Monetary Order in the amount of \$1500.00.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$1500.00. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: April 22, 2016

Residential Tenancy Branch