



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent, for compensation for loss or damage under the Act, regulations or tenancy agreement 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 personal delivery on April 15, 2017. 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

The Tenant moved into the rental unit approximately 15 years ago and this tenancy started with the new owners of the property in 2012. The tenancy is a verbal month to month tenancy. Rent is \$515.00 per month payable in advance of the 1st day of each month. It is unknown if the Tenant paid a security deposit.

The Landlord said that the Tenant did not pay \$515.00 of rent for February, 2017, when it was due and as a result, on February 8, 2017 she personally delivered a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated February 8, 2017 to the Tenant. The Landlord said the Tenant has unpaid rent for October, 2016 through to January, 2017 and unpaid rent for March, April and May, 2017 as well. The Landlord said the total unpaid rent is for 8 months at \$515.00 for a total amount of \$4,120.00.

The Landlord further indicated that the Tenant is living at the rental unit and the Landlord requested to end the tenancy as soon as possible and for an Order of Possession.

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 day the Notice was personally delivered to him or February 8, 2017. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than February 13, 2017.

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 from October, 2016 to May, 2017, in the amount of \$4,120.00.

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. I order the Landlord pursuant to s. 67 and s. 72 of the Act the Landlord will receive a monetary order for the balance owing as following:

Rent arrears:	\$4,120.00	
Recover filing fee	\$ 100.00	
Subtotal:		\$4,220.00
 Balance Owing		 \$4,220.00

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$4,220.00 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: May 16, 2017

Residential Tenancy Branch