



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LANDLORD: OPR, MNR
TENANT: CNR, FF, O

Introduction

This matter dealt with an application by both the Landlord and the Tenant. The Landlord applied to end the tenancy and for An Order of Possession and a Monetary Order for unpaid rent. The Tenant applied to cancel the Notice to End Tenancy, to recover the filing fee and for other considerations.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on April 27, 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.

The hearing started at 9:00 a.m. as scheduled, however by the end of the hearing at 9:11 a.m. the Tenant had not dialled into the conference call. In the absence of any evidence from the Tenant to support the Tenant's application, the Tenant's application is dismissed without leave to reapply.

Issues(s) to be Decided

Landlord:

1. Is the Landlord entitled 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

This tenancy started on August 1, 2015 as a month to month tenancy. Rent is \$450.00 per month payable on the 1st day of each month. No security deposit was paid

The Landlord said the Tenant has not paid the rent for April, 2017 in the amount of \$450.00 and for May, 2017 is the amount of \$450.00. The Landlord continued to say he issued a 10 Day Notice to End Tenancy for Unpaid Rent dated April 13, 2017 by posting it on the door of the Tenant's rental unit on April 13, 2017. The Landlord said the

Tenant is living in the rental unit and he is requested an Order of Possession with an effective date as soon as possible.

The Landlord said his total claim is for \$900.00 at present but he does not believe the Tenant will pay the June, 2017 rent if the Tenant is not out of the rental unit by June 1, 2017.

Analysis

Section 26 says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I find the Tenant does not have the right under the Act to withhold part or all of the rent for April or May, 2017; therefore I find in favour of the Landlord for the unpaid rent of \$900.00.

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. The Tenant did apply to dispute the Notice to End Tenancy, but as the Tenant did not appear at the hearing to support her application therefore the Tenant's application is dismissed without leave to reapply.

I find that the Tenant has not paid the overdue rent and has not been successful in disputing the Notice to End Tenancy for Unpaid Rent. 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.

As the Landlord has been successful in this matter, he is also entitled to a monetary order for unpaid rent of \$900.00.

Conclusion

The Tenant's application is dismissed without leave to reapply.

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$900.00 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 30, 2017

Residential Tenancy Branch