



Dispute Resolution Services

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Residential Tenancy Branch Office of Housing and Construction Standards

A matter regarding SUN YOW HWANG
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession, a Monetary Order for unpaid rent and to recover the filing fee for this proceeding.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on June 24, 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

This tenancy started approximately 10 years ago with the Tenant's father and approximately 3 years ago with the Tenant. The tenancy is a verbal agreement on a month to month basis. Rent is \$700.00 per month payable on the 1st day of each month. The Tenant did not pay a security deposit.

The Landlord said that the Tenant had \$1,950.00 of unpaid rent as of June 16, 2017 so the Landlord posted a 10 day Notice to End Tenancy for Unpaid Rent or Utilities dated June 16, 2017 on the door of the Tenant's rental unit. The Landlord said the Tenant made a payment of \$800.00 on July 4, 2017 and \$900.00 for the August, 2017 rent. As a result the Landlord said the Tenant now has \$950.00 of unpaid rent. The Landlord said he wants to end the tenancy and requested an Order of Possession effective as soon as possible. .

The Landlord further requested a monetary order for \$950.00 of unpaid rent and \$100.00 to recover the cost of the filing fee for this application. The Landlord requested an order for \$1,050.00.

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 3 days after it was posted, or on June 19, 2017. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than June 24, 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 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 of \$950.00 as indicated by the Landlord's affirmed testimony and the evidence of the 10 Day Notice for unpaid rent submitted in the Landlord's hearing package.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenant the \$100.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

| | | |
|--------------------|------------|------------|
| Rent arrears: | \$ 950.00 | |
| Recover filing fee | \$ 100.00 | |
| Subtotal: | | \$1,050.00 |
| Balance Owing | \$1,050.00 | |

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$1,050.00 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: August 31, 2017

Residential Tenancy Branch