



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

CNR, OPR, MNR, FF

Introduction

This hearing was scheduled in response to cross applications.

The Landlord filed an Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Tenants filed an Application for Dispute Resolution, in which the Tenants made application to set aside a Notice to End Tenancy for Cause. At the hearing the Tenant confirmed that they had not been served a Notice to End Tenancy for Cause and that they were seeking to set aside a Notice to End Tenancy for Unpaid Rent. It is apparent from information written on the Application for Dispute Resolution and from the Notice to End Tenancy that was submitted with the Application for Dispute Resolution that the Tenants are actually seeking to set aside a Notice to End Tenancy for Unpaid Rent. On this basis, the Tenants' Application has been amended to show that they are seeking to set aside the Notice to End Tenancy for Unpaid Rent. The Landlord did not object to the amendment.

Issue(s) to be Decided

The issues to be decided in relation to the Landlord's Application for Dispute Resolution, is whether the Landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; and to recover the fee from the Tenants for filing this Application for Dispute Resolution, pursuant to sections 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

The issues to be decided in relation to the Tenants' Application for Dispute Resolution, is whether the Notice to End Tenancy for Unpaid Rent should be set aside, pursuant to sections 46(4) of the *Act*.



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Background and Evidence

The Landlord and the Tenant agree that this tenancy began on October 09, 2009; that the Tenants are required to pay monthly rent of \$500.00; and that the rent is due on the ninth day of each month.

The Landlord and the Tenant agree that the male Tenant was served with a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of May 21, 2009, on May 11, 2009. The Notice declared that the Tenants had failed to pay rent, in the amount of \$500.00, that was due on May 16, 2009. At the hearing the counsel for the Tenant stated that the rent was actually due on May 09, 2009, but the Notice to End Tenancy was completed incorrectly.

At the hearing the parties were advised that the Notice to End Tenancy for Unpaid Rent is of no force and effect, as it was served on the Tenants five days before the day that the Notice declared the rent was due. I advised the parties that the Notice was unenforceable because it was served before the due date that was declared on the Notice.

The Landlord and the Tenant agree that the Tenants still owe rent from May and June, in the amount of \$1,000.00.

After considerable discussion, the Landlord and the Tenants agreed to mutually end this tenancy at 1:00 p.m. on June 30, 2009 on the understanding that the Tenants would pay the Landlord \$500.00 in satisfaction of all the rent that is currently outstanding and in compensation for the cost of filing this Application for Dispute.

Conclusion

On the basis of the mutual agreement to end this tenancy, I hereby grant the Landlord an Order of Possession that is effective on June 30, 2009 at 1:00 p.m. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

On the basis of the mutual agreement to resolve the issues in dispute at this hearing, I hereby grant the Landlord a monetary Order for the amount of \$500.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.



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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: June 25, 2009.

Dispute Resolution Officer