



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, (FF)

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for unpaid rent and utilities. The Landlord said the Tenant was served in person on May 22, 2009 with a copy of the Application and Notice of Hearing in this matter. I find that the Tenant was served as required by s. 89 of the Act and the hearing proceeded in his absence.

Issues(s) to be Decided

1. Is the Landlord entitled to end the tenancy?
2. Are there arrears of rent and utilities and if so, how much?

Background and Evidence

This tenancy started some time prior to the fall of 2008. The Landlord said rent was initially \$500.00 per month plus utilities however the parties subsequently agreed to increase rent to \$720.00 per month which included utilities. The Landlord said the Tenant had arrears of rent of \$2,820.00 for the period November 2008 to April 2009 and as a result on May 2, 2009, the Tenant was served in person with a 10 Day Notice to End Tenancy for Unpaid Rent dated May 2, 2009. The Landlord said the Tenant has not made any payments since that time and is now in arrears of rent for June 2009.

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 either pay the amount set out on the Notice or apply for dispute resolution. If a 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 must vacate the rental unit at that time. Consequently, the Tenant would have had to pay the amount on the Notice or apply to dispute that amount no later than May 7, 2009.

I find that the Tenant has not paid the amount indicated on the Notice and has not applied for dispute resolution. Pursuant to section 46(5), the Tenant is conclusively presumed to have accepted that the tenancy would end on May 12, 2009.



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Consequently, the Landlord requested and pursuant to s. 55(2)(b) of the Act, I find that she 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 rent arrears in the amount of \$4,260.00 as well as the \$50.00 filing fee for this proceeding.

Conclusion

An Order of Possession effective 48 hours after service on the Tenant and a Monetary Order in the amount of **\$4,310.00** 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: June 29, 2009.

Dispute Resolution Officer