



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent; and to recover the filing fees associated with this application.

The landlord participated in the hearing and provided affirmed testimony through an interpreter. She testified that she served the Notice of a Dispute Resolution Hearing to the tenant by way of registered mail sent January 19th, 2011. The landlord stated that on February 10th, 2011, the tenant told her that he had received the notice. The tenant did not participate and the hearing proceeded in the tenant's absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and for what amount?

Background and Evidence

Pursuant to a written agreement, the month to month tenancy started on May 4th, 2010. The monthly rent of \$620.00 was payable on the first of each month. The tenant paid a security deposit in the amount of \$310.00.

The landlord testified that the tenant has not paid rent for the months of December 2010, January and February 2011. She stated that she served the tenant in person with a 10 Day Notice to End Tenancy on January 19th, 2011.

Analysis

I accept the landlord's undisputed testimony that she served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to the *Residential Tenancy Act*. I find that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a Notice to End Tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenant in this matter has not filed an application for dispute resolution. Accordingly, I find that the landlord is entitled to an Order of Possession for unpaid rent.

Concerning the landlord's monetary claim for unpaid rent, I note that in a previous decision dated January 17th, 2011, the landlord was awarded a monetary order for unpaid rent that already covered the month of December 2010. Therefore, based on the evidence in this matter, I find that the landlord is now entitled for unpaid rent for the months of January and February 2011.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord has established a claim of \$1240.00. Since she was successful, I also award her recovery of the \$50.00 filing fee. I authorize the landlord to retain the tenant's \$310.00 security deposit and i grant the landlord a monetary order for the balance of \$980.00 pursuant to Section 67 of the Act.

This Order may be registered in the Small Claims Court and enforced as an order of that Court.

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: February 16, 2011.

Residential Tenancy Branch