



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OP, MNR, FF

Introduction

This hearing was scheduled in response to the landlord's 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 fees, and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself, the Application for Dispute Resolution was reviewed, the hearing process was explained to the parties and the parties were provided an opportunity to ask questions in relation to the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present oral evidence and to make submissions during the hearing.

Preliminary Matter

The application was amended to include a request for unpaid June, 2011, rent and fees.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to compensation for unpaid rent and late payment fees?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy agreement requires the tenant to pay monthly pad rent of \$511.00 due on the first day of each month.

The tenant confirmed she has not paid rent since March, 2011. The tenant did not dispute receipt of 2 Notices ending tenancy issued for unpaid rent.

The landlord's agent testified that the Notice ending tenancy for unpaid rent issued on March 17, 2011, was served on that date by placing the Notice in the tenant's mailbox. The Notice ending tenancy for unpaid rent issued on May 9, 2011, was posted to the

tenant's door. The effective date of the Notices was March 31, 2011 and May 19, 2011; respectively.

The Notices to End Tenancy indicated that the Notices would be automatically cancelled if the landlord received \$536.00 in March and \$1,583.00 in May; within five days of service. The Notices also indicated that the tenant was presumed to have accepted that the tenancy was ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

The tenancy agreement supplied as evidence indicated late fees of \$25.00 were payable; the landlord has claimed fees for each March to June, 2011, inclusive.

Analysis

Section 81 of the Act stipulates that a document that is left in the mail box is deemed to be received on the third day after it is placed in the mail box. I therefore find that the tenant received the March, 2011, Notice to End Tenancy on March 20, 2011.

Section 39(1) of the Act stipulates that a 10 Day Notice to End Tenancy is effective ten days after the date that the Tenant receives the Notice. As the tenant is deemed to have received this Notice on March 20, 2011 I find that the earliest effective date of the Notice is March 31, 2011; the date indicated on the Notice.

In the absence of evidence to the contrary, I find that the tenant was served with a Notice to End Tenancy that required the tenant to vacate the rental unit on March 31, 2011, pursuant to section 39 of the Act.

Section 39(4) of the Act stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. The tenant has confirmed she has not paid rent since February, 2011. The tenant did not dispute either Notice. Therefore; pursuant to section 39(5) of the Act, I find that the tenant accepted that the tenancy has ended. On this basis I will grant the Landlord an Order of Possession that is effective 2 days after service to the tenant.

I find that the landlord is entitled to compensation for unpaid rent from March to June, 2011, inclusive in the sum of \$2,044.00, plus late fees for each month, in the sum of \$100.00.

I find that the landlord's application has merit, and I find that the landlord is entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Conclusion

The landlord has been granted an Order of possession that is effective **2 days after service to the tenant**. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim, in the amount of \$2,194.00 in compensation for unpaid rent from March to June, 2011, inclusive; late fees for the same period in the sum of \$100.00 and the filing fee costs of \$50.00 paid by the landlord for this Application for Dispute Resolution.

I grant the Landlord an order under section 60 in the sum of \$2,194.00. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Dated: June 03, 2011.

Residential Tenancy Branch