



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC and FF

Introduction

This application was brought by the landlord on June 15, 2013 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served on the tenant in person on May 23, 2012. The landlord also sought a Monetary Order for unpaid rent, loss of rent, and recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing in person on June 18, 2012, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order as requested.

Background and Evidence

According to the landlord, this tenancy was in existence when he took possession of the rental building in May of 2006 and he signed a new rental agreement with the tenant on May 15, 2006. Rent is \$1,175 per month and the landlord stated that there is no security deposit.

During the hearing, the landlord gave evidence that the tenant had advised him of difficulties with his business in the spring of 2012, which resulted in the tenant having made no rent payments for April, May, June and July 2012.

The landlord stated that he has attempted to work with the tenant to give him an opportunity to restore his income and catch up on the rent payments, a position that remains the landlord's preference.

However, he stated that due to the number of months for which rent has not been paid, he can no longer afford to continue the tenancy without rent.

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due.

Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenant did not pay the rent within five days of receiving the notice and did not make application to dispute it.

Therefore, under section 46(5) of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy which was June 2, 2012.

Accordingly, I find that the landlord is entitled to an Order of Possession to take effect two days from service of it on the tenants.

I further find that the landlord is entitled to a Monetary Order for the unpaid aren't. As the tenant remains in the rental unit, and has not paid the rent for July 2012, I find that the Monetary Order should include the unpaid rent/loss of rent for July.

As the application has succeeded on its merits, I find that the landlord is entitled to recover the filing fee for this proceeding from the tenants.

Thus, I find that the tenant owes to the landlord an amount calculated as follows:

Rent for April 2012	\$1,175.00
Rent for June 2012	1,175.00
Rent/loss of rent for July 2012	1,175.00
Filing fee	<u>50.00</u>
TOTAL	\$4,750.00

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect two days from service.

In addition, the landlord's copy of this decision is also accompanied by a Monetary Order for **\$4,750.00**, enforceable through the Provincial Court of British Columbia, for service on the tenants.

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: July 09, 2012.

Residential Tenancy Branch