Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR & FF

Introduction

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondent although duly served.   On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the Notice to End Tenancy was sufficiently served on the Tenant by posting on April 2, 2013. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served by mailing, by registered mail to where the tenant resides on April 17, 2013. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

      a.   Whether the landlord is entitled to an Order for Possession?

      b.   Whether the landlord is entitled to A Monetary Order and if so how much?

      c.   Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenancy began on September 1, 2008. The present rent is $1356 per month payable on the first day of each month.

The tenant(s) failed to pay the rent for the months of April when due and the sum of $875 remained outstanding. The tenant failed to pay the rent for May when due.

At the end of April the tenant gave the landlord three cheques. The cheque dated April 26, 2013 in the sum of $900 has cleared the bank thus rent for April has been paid. The cheque dated May 10, 2013 in the sum $700 has been presented to the bank but it has not yet cleared yet. The landlord holds a post dated cheque dated May 24, 2013 in the sum of $675.

I determined the sum of $1331 remains outstanding (assuming the May 10, 2013 cheque does not clear).   The tenant(s) remains in the rental unit.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. There is outstanding rent. The Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired.   In such situations the Residential Tenancy Act provides 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. Accordingly, I granted the landlord an Order for Possession effective May 31, 2013.

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

Analysis - Monetary Order and Cost of Filing fee

I determined the tenant has failed to pay the rent for the month(s) of May and the sum of $1331 remains outstanding. I determined the landlord has given sufficient notice of their intention to claim for all of last month as provided in the Application for Dispute Resolution. **I granted the landlord a monetary order in the sum of $1331 plus the sum of $50 in respect of the filing fee for a total of $1381.** If the May 10, 2013 cheque provided by the Tenant clears the bank the landlord must give the tenant credit for this payment thus reducing the amount owing under the monetary order by $700. .

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: May 14, 2013

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Residential Tenancy Branch