



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter dealt with an application by the Landlords for an Order of Possession, a Monetary Order for unpaid rent and to recover the filing fee for this proceeding.

The Landlord said he served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on January 8, 2015. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

Issues(s) to be Decided

1. Do the Landlords have grounds to end the tenancy?
2. Are there rent arrears and if so, how much?
3. Are the Landlords entitled to compensation for unpaid rent and if so how much?

Background and Evidence

The Landlord said they took over management of the rental complex in August, 2014 so he does not have the tenancy agreement or information on the tenancy prior to August, 2014. The Landlord said this tenancy has been in place prior to August, 2014 but his involvement with the tenancy started in August, 2014. The tenancy is a month to month and rent is \$550.00 per month payable in advance of the 1st day of each month. The Landlord said he does not know if the Tenant paid a security deposit.

The Landlord said that the Tenant did not pay \$550.00 of rent for November and \$550.00 of rent for December, 2014 when it was due and as a result, on December 15, 2014 the Landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 15, 2014 on the door of the Tenant's rental unit. The Landlord said the Tenant has unpaid rent for January, 2015 of \$550.00 as well.

The Landlord further indicated that the Tenant is living at the rental unit and the Landlord requested an Order of Possession for as soon as possible to end the tenancy.

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 pay the overdue rent or apply for dispute resolution. If the 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 they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy 3 days after it was posted, or on December 18, 2014. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than December 23, 2014.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55(2)(b) of the Act that the Landlord 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 unpaid rent for November and December, 2014, in the amount of \$1,100.00. I further find that the Landlord is entitled to recover a loss of rental income for January, 2015 in the amount of \$550.00.

As the Landlord has been successful in this matter, he is also entitled to recover from the Tenant the \$50.00 filing fee for this proceeding. The Landlord will receive a monetary order for the balance owing as following:

Rent arrears:	\$1,650.00	
Recover filing fee	\$ 50.00	
Subtotal:		\$1,700.00
Balance Owing		\$1,700.00

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant and a Monetary Order in the amount of \$1,700.00 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: January 26, 2015

Residential Tenancy Branch

