



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: OPR, OPB, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the 10 Day Notice to End Tenancy dated August 2, 2008, a monetary order for rent owed for the month of September, an order to retain the security deposit in partial satisfaction of the claim, and an order to recover the cost of filing the Application. Appearing were the landlord's agent, the landlord's Building Manager and one of the two tenants. All parties gave affirmed testimony.

The landlord provided a copy of the 10 Day Notice to End Tenancy and receipts to confirm service of the hearing package by registered mail.

The landlord stated that subsequent to filing the Application, the tenants paid rent for the month of August 2008. In view of the timely scheduling of this hearing, the landlord's agent withdrew a claim for loss of income anticipated for October 2008.

Issue(s) to be Decided

The landlord is seeking an Order of Possession and a monetary order claiming \$1,000.00.

The issues to be determined based on the testimony and the documentary evidence are:

- Whether the landlord is entitled to an Order of Possession based on the 10 Day Notice to End Tenancy and

- Whether the landlord is entitled to monetary compensation for rental arrears owed and recovery of the filing fee.

Background and Evidence

The landlord submitted into evidence a copy of the 10 Day Notice to End Tenancy dated August 2, 2008. The effective date was August 12, 2008. The tenant confirmed receipt of the Notice on August 2, 2008 via hand delivery by the landlord's Building Manager. The landlord's agent testified that rent in the amount of \$950.00 remained outstanding for the month of September 2008.

The tenant also confirmed receipt of the hearing package by registered mail on August 21, 2008. The tenant testified that the rental arrears being claimed were valid and acknowledged that he had not submitted an application to dispute the Notice.

Analysis

Based on the affirmed testimony of the parties and the documentary evidence submitted, I find that the tenant was served with a 10 Day Notice to End Tenancy for unpaid rent. Rent for the month of September 2008 remains outstanding. The tenant is therefore conclusively presumed under Section 46(5) of the *Residential Tenancy Act* to have accepted that the tenancy ended on the effective date of the Notice. Based on the above facts I find that the landlord is entitled to an Order of Possession.

I find that the landlord has established a total monetary claim of \$1,000.00 comprised of \$950.00 rent owed for the month of September 2008, and the \$50.00 fee paid for filing this application. I order that the landlord retain the security deposit in the amount of \$475.00 and interest amounting to \$2.74 in partial satisfaction of the claim, leaving a balance due of \$522.26.

Conclusion

I hereby issue an Order of Possession in favour of the landlord effective 2 days after service upon the tenant. This Order must be served on the Respondent and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I hereby grant the landlord a monetary order under Section 67 of the *Residential Tenancy Act* for \$522.26. This Order must be served on the Respondent and may be filed in the Small Claims Court of British Columbia and enforced as an Order of that Court.

Date of Decision