

Dispute Resolution Services

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

DECISION

Dispute Codes: MNR MNSD OPR FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order inclusive of recovery of the filing fee, and an order to retain the security deposit in partial satisfaction of the monetary claim. Despite having been properly served with the application for dispute resolution and notice of hearing the tenant did not participate in the conference call hearing. The landlord was properly affirmed to give truthful testimony.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an order of possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on July 1, 1998. Rent in the amount of \$615 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$297.50. The tenant failed to pay rent in the month of October 2008 and the landlord served the tenant with a notice to end tenancy by October 26, 2008 for non-payment of rent. In the hearing the landlord requested to recover loss of income for the month of November 2008, given his testimony that the tenant was slow in vacating the rental unit well into November 2008.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid the outstanding rent and has not applied for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. The effective date of the notice was October 26, 2008, and the tenant failed to vacate by that date. An application for dispute resolution was made October 28, 2008 and the landlord should have known at that time that a revenue loss for the proceeding month was likely to be incurred but did not apply for compensation of loss. Without the benefit of the tenant's agreement to a condition of which they were not properly notified the landlord is not entitled to recover loss of revenue for November.

Based on the above facts I find that the landlord is entitled to an order of possession. As for the monetary order, I find that the landlord has established a claim for \$615 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

I grant an order of possession to the landlord. The tenant must be served with this order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order that the landlord retain the security deposit and interest of \$332.54 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$332.46. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: November 21, 2008

Dispute Resolution Officer