



Dispute Resolution Services

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

Decision

Dispute Codes: OPR MNR MNSD FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. During the hearing the landlord stated that the tenant had paid all outstanding rent, and I accordingly dismissed the monetary portion of the landlord's application.

An agent for the landlord and one of the tenants participated in the teleconference hearing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began on January 15, 2008. The tenants failed to pay the full rent owing from January 2009 to July 2009, and on July 6, 2009 the landlord served the tenants with a notice to end tenancy for non-payment of rent. The tenants made incremental payments of the outstanding amount but did not pay the full amount owing within five days of having received the notice to end tenancy. On each of the occasions that the tenant made a payment of rent, the landlord issued a receipt indicating that the payments were accepted for use and occupancy only. The tenant acknowledged the landlord's evidence on these points.

Analysis

I find that the tenants were served with a notice to end tenancy for non-payment of rent, they did not pay the full amount of outstanding rent within five days of having received the notice to end tenancy, and they did not apply for dispute resolution to dispute the notice. The tenants are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. The landlord did not reinstate the tenancy by accepting payments from the tenants, as they indicated on the receipts that the amounts were accepted for use and occupancy only. Based on the above facts I find that the landlord is entitled to an order of possession.

Conclusion

I grant the landlord an order of possession effective October 1, 2009. The tenants must be served with the order of possession. Should the tenants 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.

The landlord is also entitled to recovery of the \$50 filing fee for the cost of their application.

Dated September 16, 2009.