

Dispute Codes: OP, MNR, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

1. An Order of Possession pursuant to Section 55;
2. A monetary order for unpaid rent; and
3. An Order to recover the filing fee pursuant to Section 72.

Both parties were given a full opportunity to be heard, to present evidence and to make submissions. I accept that the tenant was properly served with the Notice to End Tenancy and the Application for Dispute Resolution hearing package.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

Issue(s) to be Decided

Whether the landlord has cause to end this tenancy and receive an Order of Possession and whether the landlord is entitled to monetary order for unpaid rent and recovery of the filing fee.

Background and Findings

Order of Possession

The landlord testified that the tenant is frequently very late paying the rent and she did not pay rent for June 2009 therefore, on June 14, 2009, the landlord served the tenant with a 10 day Notice to End Tenancy. The tenant agrees that she was served with the Notice but says she paid the rent although she cannot recall when she paid the rent . The tenant testified that while she had a receipt for her payments she did not supply that receipt in evidence. The landlord testified that he is the agent acting for the owner who is currently in Europe and therefore it is possible that the tenant has made more payments on the arrears than he is aware of however, in any event, any payment that might be currently clearing the bank or on route to the owner, was not made within 5

days of service of the Notice to End Tenancy and the landlord still seeks an Order of Possession.

The tenant says she paid the rent although she could supply no proof of payment, the landlord says she has not paid or, if she has made payment recently she did not pay the rent within 5 days of having been served with the Notice to End Tenancy on June 14, 2009. I prefer the evidence of the landlord and find that he is entitled to an Order of Possession for unpaid rent.

Monetary Order

Rental Arrears

The landlord testified that he is the agent acting for the owner who is currently in Europe and therefore it is possible that the tenant has made more payments on the arrears than he is aware of. I find that the landlord has failed to provide sufficient evidence of the arrears, if any, that might remain outstanding. I therefore dismiss the landlord's application for a monetary order respecting rental arrears.

Filing Fees

As the landlord has been partially successful in this application I will allow the landlord to recover \$25.00 of the filing fees paid for this application from the tenant.

Conclusion

The landlord is provided with a formal copy of an order of possession. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The landlord is provided with a formal copy of an order for the total monetary award as set out above. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Provincial Court of British Columbia.