

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This is an application by the Landlord for an order of possession. The Landlord has served a notice to end tenancy for unpaid rent and is seeking the recovery of the filing fee. The Landlords appeared by conference call and gave affirmed testimony. No One appeared for the Tenants.

Issues(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

This Tenancy began on April 26, 2010 on a month to month basis. The rent of \$1,250.00 was payable on or before the 1st of each month. A security deposit of \$625.00 was paid on April 26, 2010. The Landlord states that a signed tenancy agreement exists, but that none was filed. A 10 day notice to end tenancy for unpaid rent for August was delivered in person to the Tenant on September 3, 2010. \$500.00 was paid on August 27, 2010. No application for dispute resolution has been filed within the 5 day period. A second 10 day notice to end tenancy was filed and served on the same day of September 3, 2010 for the month of September in the amount of \$1,250.00. Again no application for dispute resolution has been filed within the 5 day period and the balance for both months remain outstanding. The Landlord states that the Tenant is currently still residing at the rental unit. The hearing documents were sent via registered mail on September 16, 2010. The registered mail was returned not delivered. The Landlord is seeking rent not yet paid for the month of October 2010.

Analysis

I find that the two 10 day notice to end tenancy notice's were served properly. As no applications for dispute have been filed by the Tenant and the rent remains outstanding, the Tenant is conclusively presumed to have accepted that the tenancy ends on the date of the notice. I also find that the Landlord has properly served the Tenant with the hearing documents. Based upon the undisputed facts of the Landlord, I grant an order of possession to the Landlord. The Tenant must be served with the 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.

As for the monetary order, I find that the Landlord has established a claim for \$3,250.00 in unpaid rent. The Landlord is entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$625.00 deposit in partial satisfaction of the claim and I grant an order under section 67 for the balance due of \$2,675.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted an order of possession and a monetary order for \$2,675.00. The Landlord may retain the security deposit.

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*.
