



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, MT

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. The tenant filed a cross application to allow for more time to make an application. The landlord participated in the conference call hearing and gave affirmed testimony. Although the tenant was served with the landlords' application and notice of this hearing by registered mail she did not appear. Pursuant to section 90(a) of the *Act* the tenant is deemed as having been served in accordance with the *Act*.

Issue(s) to be Decided

Is the landlord is entitled to an order or possession
Is the landlord is entitled to a monetary order for unpaid rent
Is the tenant is entitled to more time to make an application for dispute resolution

Background and Evidence

The tenancy began on September 15, 2009, rent in the amount of \$970.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$485.00.

The tenant failed to pay rent in full for the months of November/December 2009, and April through October 2010 and the landlord is claiming loss of revenue for those months and is seeking a monetary order.

On August 18, 2010 the tenant was personally served with a Notice to End Tenancy but did neither pay the balance of the rent or file for dispute resolution.

The landlord seeks an Order of Possession as soon as possible.

The tenant filed for dispute resolution requesting more time to file an application. The tenant did not serve the landlord with hearing documents for this application nor did the tenant attend the hearing.

Analysis

As to the landlord's claims:

Based on the documentary evidence and testimony I find that the tenant was properly served on August 18, 2010 with a Notice to End Tenancy for non-payment of rent. The tenant did not pay the outstanding rent or apply for dispute resolution to dispute the notice within 5 days of receiving the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the documentary evidence and testimony 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 monetary claim for \$2488.76 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee.

Rent owing:

November 2009	\$24.34
December 2009	\$310.00
February 2010	\$334.34 over payment
April 2010	\$68.79
May 2010	\$137.31
June 2010	\$114.22
July 2010	\$114.22
August 2010	\$114.22
September 2010	\$970.00
October 2010	\$970.00

Total rent due \$2823.10 minus February 2010 \$334.34 over payment = \$2488.76

As to the tenant's claims:

As the landlord's Notice to End Tenancy has been upheld, the tenant's application to allow more time to make an application to cancel a Notice to End Tenancy is dismissed.

Conclusion

I hereby grant the Landlord an **Order of Possession**, effective **2 days** after service of the Order upon the Tenant and All Occupants. This Order must be served on the Tenant and All Occupants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a claim for \$2488.76 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the Landlord pursuant to s. 38(4) of the Act to keep the Tenant's security deposit in partial satisfaction of the claim and I grant the landlord a Monetary Order under section 67 for the balance due of \$2053.76.

Pursuant to section 67 of the Act, I hereby issue a **Monetary Order** in favour of the landlord in the amount of **\$2053.76**. If the amount is not paid by the tenant, the order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order of that court.

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*.

Dated: October 19, 2010

Dispute Resolution Officer