



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPR, MNR, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. The landlord attended at the scheduled start time and 7 minutes later the tenants entered the conference call hearing; at which point I reviewed the testimony given to that point, the application and then affirmed the tenants.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession for unpaid rent?

Is the landlord entitled to a monetary Order?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy agreement requires the tenant to pay monthly rent of 850.00. During the hearing the parties agreed that the tenant currently owed the landlord \$1,547.56 for unpaid October and November, 2010, rent.

During the hearing the parties agreed that on October 3, 2010, the landlord personally served the male tenant a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of October 8, 2010.

The Notice indicated that the Notice would be automatically cancelled if the landlord received \$850.00 plus 247.66 October rent within five days after the tenant is assumed to have received the Notice. The Notice also indicated that the tenant is presumed to have accepted that the tenancy is ending and that the tenant must move out of the rental by the date set out in the Notice unless the tenant filed an Application for Dispute Resolution within five days.

Approximately 8 days ago the tenants paid \$400.00.

At the time of service of the notice needing tenancy the tenant gave the landlord cheques and returned the notice to the landlord. The landlord denied having accepted the notice back from the tenant. The rent payment given on October 3, 2010, was in the form of a cheque issued for October 8 and it was returned as NSF.

The landlord submitted copies of a number of previous notices issued for failure to pay rent.

Mutually Settled Agreement

During the hearing the tenants offered to vacate the rental unit by the end of November; the landlord accepted this offer. The parties also agreed, as part of the mutual agreement, that the landlord would be issued an Order of possession for November 30, 2010, at 1 p.m.

Finding

Based on the agreed facts by both parties, I find that the tenants have not paid rent in the amount of \$1,547.56 for October and November, 2010, and that the landlord is entitled to compensation in that amount.

I find that the landlord's application has merit and that the landlord is entitled to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Conclusion

By mutual agreement between the parties the landlord has been granted an Order of Possession that is effective **November 30, 2010, at 1 p.m.** This Order may be served on the tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim, in the amount of \$1,597.56, which is comprised of October and November, 2010, unpaid rent and \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution. Based on these determinations I grant the landlord a monetary Order in the sum of \$1,597.56. In the event that the tenants do not comply with this Order, it may be served on the tenants, filed with the Province of British Columbia Small Claims Court 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: November 19, 2010.

Dispute Resolution Officer