

DECISION

Dispute Codes OPC, MNR, CNC, FF

Introduction

There is an application by the Landlord for an order of possession resulting from a 1 month notice to end tenancy for cause. A request for a monetary order for unpaid rent and utilities and the recovery of the filing fee.

The Tenant has also filed an application to cancel a notice to end tenancy for cause and to recover the cost of the filing fee.

Both parties attended by conference call and gave affirmed testimony.

Issues(s) to be Decided

Is the Landlord entitled to an order of possession for repeated late rent payments?

Is the Landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The Landlord states that the hearing documents were served by registered mail on October 28, 2010 and have provided the registered mail tag as evidence. The Landlord also sent a letter by registered mail on October 21, 2010 that was returned by Canada Post, but the Tenant states that he received it. The Landlord confirms that she has the original package returned. The November 8, 2010 amended application was sent by registered mail by the Landlord with a 59 page evidence package. The Landlord has provided the registered mail tag as confirmation, but the Tenant disputes receiving the evidence, but did get the amended application. The Landlord's evidence package consist of a signed tenancy agreement, a tenant ledger, a copy of a "friendly" minder notice of a late rent payment, a signed agreement for a tenant payment schedule, a late rent payment letter dated July 14, 2010, two 10 day notice to end tenancy for unpaid

rent or utilities, 3 use and occupancy receipts and a move out letter for October 31, 2010 dated October 20, 2010.

The Landlord states that the Tenancy began on March 1, 2010 and that the monthly rent was \$690.00 per month payable by the 1st of each month. A security deposit of \$345.00 was paid on February 25, 2010. The Landlord states that the Tenant has been late paying rent from April 1, 2010 to October 2010. The Landlord's agent, J.P. states that friendly reminder notices of late rent payments were given to the Tenant 1 day after the monthly rent was due for each of the months. The Tenant agrees with this and that all of his encounters paying rent are with the Landlord's agent, J.P. The Landlord has served the Tenant with two 10 day notices to end tenancy for unpaid rent in September and October. The Tenant agrees that he was served with these notices as well. The Landlord is seeking November rent arrears of \$690.00 and as of the date of this hearing has not made any payment for November rent. The Tenant disputes that he offered to pay the November rent, but indicated that the Landlord's agent, K.F. refused payment. The Landlord's agent disputes this by stating that she would accept payment, but that it would be for use and occupancy only and not to continue the tenancy. The Tenant states that he always pays the rent even though he is late. The Landlord's understanding from the Tenant's comments was that he would still make the November rent payment, but has not yet done so. The Tenant has admitted that because of this application he did not make the November rent payment. The Landlord also states that she has received two notices from the City of New Westminster of unpaid utilities for the rental unit for \$92.63, which was provided in her evidence package. The Tenant disputes that he paid the utility bill, but has not provided any evidence of such.

Analysis

The Tenant does not dispute receiving any of the friendly reminder notices of late rent payments, nor of the two 10 day notices to end tenancy for unpaid rent. Based upon the facts provided by both the Landlord and the Tenant, I am satisfied that the Tenant was properly served with the notice to end tenancy and the hearing documents, which included the evidence package. I find that the Tenant did not dispute the notice's of late

payments of rent since the beginning of his tenancy. Based upon the balance of probabilities that the evidence package was properly served intact, I find that the Landlord has established cause to end the tenancy for repeated late rent payments. The Landlord is entitled to an order of possession. 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 the \$690.00 November rent and for the \$92.63 utility bill. The Landlord is also entitled to recovery of the \$50.00 filing fee. I grant the Landlord an order under section 67 for the balance due of \$832.63. 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 \$832.63.

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 23, 2010.

Dispute Resolution Officer