



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent, a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee. The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing. I found that the tenant had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issue to be Decided

Is the landlord entitled to any of the above under the Act.

Summary of Background and Evidence

This tenancy started on January 1, 2009 with monthly rent of \$1500.00 and the tenant paid a security deposit of \$750.00. On October 6, 2010 the landlord served the tenant with a Notice to End Tenancy for Unpaid Rent.

The landlord testified that rent remains unpaid for the months of October and November 2010 in the amount of \$3000.00 with late/NSF fees of \$100.00. The landlord discovered the tenant had vacated the unit on November 2, 2010 during a pre-arranged inspection. The landlord was unable to re-rent the unit before December 15, 2010 and is asking for ½ months rent compensation in the amount of \$750.00 for December 1st to 15th. The landlord is seeking a monetary claim totalling \$3850.00.

As the tenant has vacated the rental unit the landlord no longer requires an order of possession.

Analysis

Based on the documentary evidence and testimony I find that the tenant was properly served with a notice to end tenancy for non-payment of rent. The tenant did not pay the



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outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. As the tenant has vacated the rental unit the landlord no longer requires an order of possession and this portion of their application is dismissed.

As for the monetary order, I find that the landlord has established a claim for \$3850.00 in unpaid rent, lost revenue and fees. The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

I find that the landlord has established a monetary claim for \$3850.00. 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 \$750.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of \$3150.00 ($\$3850.00 + \$50.00 = \$3900.00 - \$750.00 = \3150.00)

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$3150.00**. 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: November 16, 2010

Dispute Resolution Officer