



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 to obtain 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. Both parties participated in the conference call hearing.

Issues to be Decided

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

Summary of Background and Evidence

This tenancy started in September 4, 2010 with rent of \$1500.00, the tenant paid a security deposit of \$750.00. On October 28, 2010 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenant owes 2 month's rent for total rent owing of \$3000.00. As the tenants still occupy the rental unit the landlord has requested an order of possession effective 2 days after service of the order. The landlord did consider allowing the tenants to stay until the end of November but only if they paid all the rent that was owed the landlord.

The tenants testified that they withheld rent because of the condition of the house. The tenants stated the residence is a former marijuana grow operation and that there is a significant amount of mould present within the residence which is causing their baby to be sick. The tenants stated that they had contacted the landlord regarding the mould and the leaking tub but the landlord had been un-responsive to their request for repairs.

The tenants were not aware that the appropriate venue in which to address such matters was by submitting an application for dispute resolution through this office. The tenants thought that today's proceedings were to discuss all issues related to the tenancy and they did not understand that this was to hear the landlord's application only as they had not filed for dispute resolution.



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Analysis

Based on the documentary evidence and testimony I find that the tenants were properly served with a notice to end tenancy for non-payment of rent. The tenants did not pay the 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. Based on the above facts 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 claim for \$3000.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

I hereby grant the Landlord an **Order of Possession**, effective **2 days** after service of the Order upon the Tenants. This Order must be served on the Tenants 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 monetary claim for \$3000.00 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 \$750.00 security deposit in partial satisfaction of the claim and I grant the landlord an monetary order under section 67 for the balance due of **\$2300.00** ($\$3000.00 + \$50.00 = \$3050.00 - \$750.00 = \2300.00)

A monetary order in the amount of **\$2300.00** has been issued to the Landlord and a copy of it must be served on the Tenant. 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 25, 2010

Dispute Resolution Officer