



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND, MNR, MNSD, OPR, O, FF

Introduction

This hearing dealt with cross applications. The landlord has applied 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. The tenant has applied to cancel the notice to end tenancy for unpaid rent and recovery of the filing fee. The landlord participated in the conference call hearing the tenant did not. As both parties applied for dispute resolution and the hearings scheduled for the same date and time, the tenant was aware of the hearing and the hearing proceeded in the tenant's absence.

Issues to be Decided

Is either party entitled to any of the above under the Act.

Summary of Background and Evidence

This tenancy started on August 21, 2010 with current monthly rent of \$1800.00, the tenant paid a security deposit of \$900.00 and a pet deposit of \$100.00. On October 15, 2010 the landlord served the tenant with a Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenant currently owes the following in rent: September \$300.00, October \$1800.00 and November \$1800.00 for a total of \$3900.00. Any attempts to contact the tenant have failed as the tenant appears to be avoiding the landlord.

The tenant still occupies the rental unit and the landlord has requested an order of possession effective 2 days after service on the tenant.

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 file to dispute the notice but did not participate in the hearing nor has the tenant paid the outstanding rent. Therefore it is conclusively presumed that the tenant has 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.



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As for the monetary order, I find that the landlord has established a claim for \$3900.00 in unpaid rent and utilities. The landlord is also entitled to recovery of the \$50.00 filing fee.

The tenant's application is dismissed without leave to reapply.

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 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 \$3900.00. 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 \$900.00 security deposit and \$100.00 pet deposit in partial satisfaction of the claim and I grant the landlord an monetary order under section 67 for the balance due of \$2950.00 ($\$3900.00 + \$50.00 = \$3950.00 - \$900.00 = \$3050.00 - \$100.00 = \2950.00)

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$2950.00**. 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 19, 2010

Dispute Resolution Officer