



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR , MNDC, 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 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 July 9, 2010 with rent of \$1000.00 and the tenant paid a security deposit of \$500.00. On October 29, 2010 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord's agent testified that the tenant originally owed \$620.00 rent for October but then paid \$600.00 leaving a rent balance due of \$20.00. The tenant has not paid November rent in the amount of \$1000.00 and the total rent past due is \$1020.00. The landlord has given the tenant receipts for any rent paid stating 'for use and occupancy only'. As the tenant still occupies the rental unit and has made no additional payments towards the rent due the landlord's agent has requested an order of possession effective 2 days after service on the tenant.

The landlord's agent stated that if the tenant pays both the past due rent of \$1020.00 and December's rent of \$1000.00, the landlord will allow the tenant to stay in the rental unit until 1PM, December 31, 2010. Should the tenant be able to pay all the rent owed, the landlord's agent is willing to discuss rescinding the order of possession with the landlord and re-instating the tenancy. The landlord's agent was very clear in this hearing however that the landlord would have the final say on this matter and this was in no way an agreement to continue the tenancy.

The tenant testified that he does owe rent in the amount of \$1020.00 and that he hopes to have the monies to pay the rent owed today or tomorrow. The tenant stated that he had been having issues with being paid by his employer and hoped that going forward he would be back on track with paying his rent on time.



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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 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 \$1020.00 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 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 \$1020.00 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 \$500.00 security deposit in partial satisfaction of the claim and I grant the landlord an monetary order under section 67 for the balance due of **\$570.00** ($\$1020.00 + \$50.00 = \$1070.00 - \$500.00 = \570.00)

A monetary order in the amount of **\$570.00** 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 29, 2010

Dispute Resolution Officer