



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF

This hearing dealt with an application by the landlord for an Order of Possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on October 28, 2010, the tenants did not participate in the conference call hearing.

The landlord attended, gave affirmed evidence, and provided evidence in advance of the hearing. All information provided has been reviewed and is considered in this Decision.

During the course of the hearing, the landlord testified that he did not collect a security deposit from the tenant and an error appears on the Landlord's Application for Dispute Resolution claiming to retain the security deposit, and therefore, the application to retain the security deposit in partial satisfaction of the claim is withdrawn. I hereby dismiss that portion of the landlord's application.

Issues to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent or utilities?

Is the landlord entitled to a monetary order for unpaid rent or utilities?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on November 1, 2005. Rent in the amount of \$1,520.00 is payable in advance on the first day of each month. The landlord testified that the two named tenants are both the same person, going by two different names. Further, the landlord testified that he did not collect a security deposit from the tenant.

The tenant failed to pay utilities in the months of April through August, 2010. The landlord gave a written demand for payment which stated that the tenant owed \$1,510.65 up to June 2, 2010 and on October 3, 2010 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. That notice stated that the tenant failed to pay utilities in the amount of \$1,700.00 following written demand on August 25, 2010. The tenant further failed to pay rent in the month of November, 2010 and currently owes \$1,520.00 in rental arrears.

Analysis

Based on the landlord's testimony I find that the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The tenant has not paid the outstanding utilities, rent is now in arrears, and the tenant has not applied 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 for the monetary order, I find that the landlord has established a claim for \$1,700.00 in unpaid utilities and \$1,520.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

Based on the above facts I find that 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.

I further grant the landlord an order under section 67 for the balance due of \$3,270.00. This order may be filed in the Provincial Court of British Columbia, Small Claims division 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 10, 2010.

Dispute Resolution Officer