



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

Landlord: OPR, MNR
Tenant: CNR, FF

Introduction

This hearing was convened by way of conference call to deal with cross applications made by the landlords and the tenant. The landlords have applied for an Order of Possession for unpaid rent or utilities, for a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenant for the cost of this application. The tenant has applied for an order cancelling a notice to end tenancy for unpaid rent or utilities and to recover the filing fee from the landlords for the cost of this application.

The hearing was scheduled to commence at 1:30 p.m. on this date. One of the landlords attended the hearing however by 1:40 p.m. the tenant had still not dialled into the conference call hearing.

The landlord gave affirmed testimony. Due to the tenant's failure to attend, the tenant's application is hereby dismissed.

Issues(s) 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?

Background and Evidence

This fixed-term tenancy began on March 1, 2010, expires on March 1, 2011, and the tenant still resides in the rental unit. Rent in the amount of \$800.00 is payable in

advance on the 1st day of each month. The landlord collected a security deposit from the tenant in January, 2010 in the amount of \$400.00, for which the tenant paid cash.

The landlord testified that the tenant provided a cheque in the amount of \$800.00 for the rent for the first month of the tenancy, and then asked the landlord not to cash it yet. She gave him another cheque in the amount of \$400.00 and said she would make up the balance later, but never did. The landlord then cashed the first cheque and applied it to the rent for the month of April, 2010.

On October 9, 2010, the landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, a copy of which was provided in advance of the hearing. That notice states that the tenant failed to pay rent in the amount of \$400.00 that was due on March 1, 2010 and has an expected date of vacancy of October 19, 2010. The landlord further testified that it was served personally on the tenant on October 9, 2010 by another party, who also provided a Proof of Service document.

The tenant further failed to pay rent in the month of November, 2010. The landlord claims \$800.00 for November's rent, \$400.00 for March's rent, and \$50.00 for recovery of the filing fee.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant has not paid the outstanding rent and has not attended the hearing 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 \$1,200.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed in its entirety without leave to reapply.

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.

Pursuant to my authority under Section 72 (2) (b) of the *Residential Tenancy Act*, I further order that the landlord retain the security deposit and interest of \$400.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$850.00. 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 15, 2010.

Dispute Resolution Officer