

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This is an application by the Landlord for an order of possession resulting from a 10 day notice to end a tenancy for unpaid rent, for a monetary order for unpaid rent or utilities and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement. The Landlord attended by conference call and gave affirmed testimony. The Tenant M.L. attended by conference call and gave affirmed testimony. The Tenant P.C. did not attend.

Issues(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Background and Evidence

The Landlord has served the Tenants with a 10 day notice to end tenancy for unpaid rent on November 3, 2010 with a move-out date on November 13, 2010. The Tenants have not filed an application for dispute resolution within 5 days of receiving this notice. The Landlord states that the hearing documents were personally served on the Tenants on November 19, 2010.

Analysis

Section 46 (1) A landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

Section 46 (4) Within 5 days after receiving a notice under this section, the tenant may (a) pay the overdue rent, in which case the notice has no effect, or (b) dispute the notice by making an application for dispute resolution.

Section 46 (5) If a tenant who has received a notice under this section does not pay the rent or make an application for dispute resolution in accordance with subsection (4), the Tenant (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and (b) must vacate the rental unit to which the notice relates by that date.

Based upon the undisputed affirmed testimony of the Landlord, I find that the Tenant has conclusively presumed to have accepted that the tenancy ends on the effective date of the notice. The Tenant did not apply for dispute resolution or pay the overdue rent. 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.

As for the monetary order, I find that the Landlord has established a claim for \$845.00 in unpaid rent for November and a November late rent fee. The Landlord is also entitled to recovery of the \$50.00 filing fee. I grant an order under section 67 for the balance due of \$895.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted an order of possession and a monetary order for \$895.00.

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: December 09, 2010.

Dispute Resolution Officer