



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

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 November 17, the tenant did not participate in the conference call hearing.

At the hearing the landlord asked to amend his application to include a claim for loss of income for December. I find that the tenant should reasonably have known that the landlord could not re-rent the unit while he was residing therein and I allow the amendment.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Background and Evidence

The tenancy began in 2009. Rent in the amount of \$680.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$340.00. The tenant failed to pay \$340.00 of his rent in the month of October and paid no rent whatsoever in the month of November. On November 3 the landlord served the tenant with a 10 day notice to end tenancy by

posting the notice on the door of the rental unit. In December the tenant paid \$600.00 which the landlord accepted for use and occupancy only.

Analysis

Based on the landlord's undisputed testimony, I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant 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. 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 tenant failed to pay \$340.00 of his rent in the month of October, \$680.00 in the month of November and \$80.00 in the month of December. I find that the landlord is entitled to recover a total of \$1,100.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$340.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$810.00. 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 \$810.00. The landlord may retain the security deposit.

Dated: December 08, 2010

Dispute Resolution Officer