

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent and a monetary order for unpaid rent. The landlord participated in the conference call hearing but the tenants did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing. I found that the tenants had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issues to be Decided

Is the landlord entitled to any of the above under the Act.

Summary of Background and Evidence

This tenancy started March 5, 2010 with rent of \$599.00, the tenant paid a security deposit of \$350.00. On December 2, 2010 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenant paid the December 2010 rent in 2 instalments, one on December 27, 2010 and one January 5, 2011, and that the landlord gave the tenant 'for use and occupancy only' receipts for both payments. The landlord's agent stated that the tenant currently owes \$608.00 in unpaid rent.

As the tenant still occupies the rental unit and has made no efforts to pay the rent that is past due, the landlord has requested an order of possession effective 2 days after service on the tenant.

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 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.

As for the monetary order, I find that the landlord has established a claim for \$608.00 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. 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 \$608.00 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 \$350.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$308.00** ($\$608.00 + \$50.00 = \$658.00 - \$350.00 = \308.00)

A monetary order in the amount of **\$308.00** 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: January 11, 2011

Dispute Resolution Officer