



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

Dispute Codes OPL, MNR, MNSD, FF

Introduction

This hearing was convened in response to an application filed by the landlord seeking:

1. An Order of Possession
2. A monetary Order for unpaid rent;
3. An Order to be allowed to retain the security deposit; and
4. Recovery of the filing fee.

The landlord's manager testified that he served the tenant with the Application for Dispute resolution hearing package including the Notice of Hearing on January 4, 2011 by personally handing the package to the tenant. I accept the manager's sworn testimony and find that the tenant was duly served with notice of this hearing although he did not appear at the hearing.

Issue(s) to be Decided

Is the landlord entitled to the Orders sought?

Background and Evidence

The landlord's manager testified that he served the tenant personally with a 2 month Notice to End Tenancy for Landlord's Use of property on November 1, 2010 at 2:10 pm. The effective date on the Notice is January 1, 2011 however the landlord's manager testified that the tenant has not vacated the rental unit.

The landlord's manager testified that the tenant did pay the rental arrears requested in this application and the application for those arrears as well as for permission to keep the deposit is therefore no longer required. The landlord's manager testified that he accepted payment of the rental arrears marking "for use and occupancy only" on the receipt so as not to reinstate the tenancy.

Analysis

When a tenant is served with a Notice to End Tenancy and the tenant does not dispute the Notice the tenant is presumed to have accepted that the tenancy is ending on the effective date set out on the Notice. Based on the undisputed evidence of the landlord I find that the landlord is entitled to an Order of Possession.

As the landlord has been successful in this application the landlord may recover the \$50.00 filing fee and deduct that sum from the security deposit held on the tenant's account.

Conclusion

The landlord is provided with a formal copy of an order of possession. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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*.