



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent; a Monetary Order for money owed under the Act, for unpaid rent, and to keep the security deposit; and to recover the filing fees associated with this application.

The landlord's resident manager participated in the hearing and provided affirmed testimony. He testified that the landlord served the Notice of a Dispute Resolution Hearing to the tenant by way of registered mail, for which Canada Post confirmed successful delivery on January 14th, 2011. The tenant did not participate and the hearing proceeded in the tenant's absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and for what amount?

Background and Evidence

The rental unit consists of a one bedroom apartment in a multi-unit complex located in Surrey. Pursuant to a written agreement, the month to month tenancy started on July 1st, 2010. The monthly rent of \$700.00 was payable on the first of each month. The agreement showed that the tenant paid a security deposit in the amount of \$180.00, but at the hearing the resident manager testified that the tenant paid the required \$350.00.

The written submissions provided by the landlord showed that on December 3rd, 2010, the tenant was served with a 10 Day Notice to End Tenancy for not paying that month's rent.

At the hearing, the resident manager testified that the tenant had since paid the December rent, but that the rent for the month of January 2011 remained unpaid. The resident manager stated that the tenant was served with another 10 Day Notice to End Tenancy on January 5th, 2011, effective January 15th. The resident manager submitted an updated monetary claim of \$700.00 for that month's rent.

Analysis

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a Notice to End Tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenant in this matter did not file an application for dispute resolution.

I accept the resident manager's undisputed testimony that the landlord served the tenant with the Notice of a Dispute Resolution Hearing in a proper manner pursuant to the *Residential Tenancy Act*. I find that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing. Based on the available evidence, I find that the landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent for the month of January 2011.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the Order is served upon the tenant.

This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I authorize the landlord to retain the tenant's \$350.00 security deposit for a balance owing of \$350.00. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee. Accordingly, pursuant to Section 67 of the Act, I grant the landlord a monetary order totalling \$400.00.

This Order may be registered in the Small Claims Court 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 25, 2011.

Residential Tenancy Branch