

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This is an application by the Landlord for an order of possession resulting from a 10 day notice to end the tenancy for unpaid rent and a monetary order request for unpaid rent and the recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed affirmed testimony. The Tenant did not attend.

Issue(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 gave undisputed affirmed testimony that the Tenant was served the 10 day notice to end the tenancy for unpaid rent on December 16, 2010 by personally placing the notice into her mailbox. The notice to end the tenancy displayed an unpaid rent amount of \$3,475.00 due on December 1, 2010 and a move-out date of December 30, 2010. The hearing documents were served on January 8, 2011 by personally placing the documents into her mailbox.

The Landlord stated on direct evidence that the tenancy began on December 4, 2006 on a month to month basis. The monthly rent is \$950.00 payable on the 1st of each month. A security deposit of \$475.00 was paid on December 25, 2006.

The Landlord has submitted rental ledgers for 2010 showing rent arrears of \$3,475.00 and for the month of January 2011 for \$950.00. The arrears equal \$4,425.00. During the hearing the Landlord stated that he has received two rent cheque payments of \$400.00 each, once in December and the other on January 11, 2011. The Landlord states that he believes the Tenant is still residing at the rental unit, but has not been able to contact the Tenant otherwise. The Landlord has indicated that she is still getting her mail because prior to the hearing documents being left in the mailbox, her full mail box was emptied. The total rent arrears as of the date of this hearing is \$3,625.00.

The Tenant has not filed an application for dispute resolution regarding the 10 day notice to end the tenancy.

Analysis

Based upon the direct evidence of the Landlord I am satisfied that the Tenant was properly served with both the 10 day notice to end the tenancy and the notice of a hearing for dispute resolution. The Tenant has not filed for an application for dispute resolution within 5 days of receiving the notice, nor has she made payment for the unpaid rent. As such, I find that the Tenant is presumed to have conclusively accepted that the tenancy has ended. I grant the Landlord 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 \$3,625.00 in unpaid rent. The Landlord is also entitled to recovery of the \$50.00 filing fee. I grant the Landlord an order under section 67 for the balance due of \$3,675.00. 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 \$3,675.00.

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: January 24, 2011.

Residential Tenancy Branch