

DECISION

Dispute Codes OPR, OPB, MNDC, O, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order and a cross-application by the tenant for an unspecified order. Both parties participated in the conference call hearing.

Issue to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the tenant entitled to an order?

Background and Evidence

The following facts are not in dispute. The tenant is obligated to pay \$730.00 in rent in advance on the first day of each month. The tenant paid just \$300.00 in the month of January and just \$100.00 in the month of February. On February 4 the landlord served the tenant with a 10 day notice to end tenancy for unpaid rent.

The tenant testified that she has not had regular water service for several months and sought an order for the landlord to provide that service and effect whatever repairs were required.

Analysis

Section 26(1) of the Act provides that tenants must pay rent when it is due regardless of whether the landlord is complying with the Act. I find that the tenant had no legal basis under which to withhold rent.

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.

Although the tenant failed to pay \$430.00 in the month of January and \$630.00 in the month of February, the landlord claimed just \$730.00. I find that the landlord is entitled to the full amount of his claim and I award him that sum.

I find that the landlord is also entitled to recover the \$50.00 filing fee paid to bring this application and I award him that sum. I grant the landlord a monetary order under section 67 for \$780.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

As the tenancy will be ending, there is no need to address the tenant's request for an order for the landlord to restore water service and I dismiss that claim.

Conclusion

The tenant's claim is dismissed and the landlord is granted an order of possession and a monetary order for \$780.00.

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: February 25, 2011

Residential Tenancy Branch