

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This is an application by the Landlord for an order of possession resulting from the service of a 10 day notice to end tenancy for unpaid rent, a request for a monetary order for unpaid rent, to keep all or part of the security deposit, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and the recovery of the filing fee.

The Landlord attended the hearing 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

This tenancy began on August 1, 2009 on a month to month basis as stated by the Landlord on direct evidence. There is a signed tenancy agreement, but it does not display a start time of is it dated. The signed tenancy agreement show that the monthly rent was \$900.00 payable on the last day of each month. The Landlord stated that the Tenants always paid on the 1st of each month or later. The Landlord served the 10 day notice to end tenancy on February 2, 2011 by personally serving it. The notice displays an effective date of February 12, 2011 and that unpaid rent of \$900.00 was due on February 1, 2011 and that the Tenant has failed to pay utilities of \$40.00. The Landlord states that the Tenant has not paid any rent up until the date of this hearing and that she believes that they have vacated the rental unit, but that much of their belongings are still in the unit. The Tenant's have not provided a forwarding address or returned the keys.

The Landlord has provided a registered mail receipt for the service of the hearing documents on February 16, 2011.

Analysis

I am satisfied that the Tenant was properly served with the notice to end tenancy and the hearing documents as shown in the undisputed testimony of the Landlord. The Tenant has not filed an application or dispute resolution nor have they paid the outstanding rent to the Landlord. The Tenant is presumed to accept that the tenancy has ended by not filing an application nor paying the outstanding rent within 5 days of receiving the notice. On this basis, 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.

As to the monetary order, the Landlord has established a claim for \$940.00 of unpaid rent and utilities. The Landlord is however limited to the amount stipulated in her application for dispute resolution for \$400.00. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$400.00 security deposit in partial satisfaction of this claim. I grant the Landlord an order under section 67 for the balance due of \$50.00. 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 \$50.00. The Landlord may retain the security deposit.

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 23, 2011.

Residential Tenancy Branch