

DECISION

Dispute Codes CNR, LRE, OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with cross applications by the parties. The tenant filed an application seeking to cancel a 10 day Notice to End Tenancy Due to Unpaid Rent, an Order to suspend or set conditions on the landlord's right to enter the rental unit. The landlords filed an application seeking an Order of Possession and a monetary claim due to the tenant's failure to pay rent. Both parties participated in the conference call hearing.

Both parties testified and were provided the opportunity to present their evidence orally and in written and documentary form.

Issue(s) to be Decided

Did the tenant pay the rent that he was required to by February 2, 2011 as per the tenancy agreement?

Is the tenant entitled to limit the landlords' access to the rental unit?

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Background and Evidence

The tenancy began on or about December 1, 2010. Rent in the amount of \$1950.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$1000.00. The tenant failed to pay rent in the month(s) of January and February 2011. On February 2,

2011 the landlords served the tenant with a notice to end tenancy. This hearing originally commenced on February 21, 2011. The tenant indicated during the proceedings that he had a receipt that would prove that he had paid all outstanding rent and that the Notice to End Tenancy should be set aside. The tenant was also instructed to produce bank statements that would correspond with the amount paid to the landlords. An adjournment was granted to allow the tenant the opportunity to exchange all evidence with the landlords and submit his evidence to this office as well. When this hearing reconvened on February 23, 2011 the tenant was unable to produce any documentary evidence to support his claim. I therefore dismiss his application.

Analysis

I accept the landlords' testimony and 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. Based on the above facts I find that the landlords are 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 for the monetary order, I find that the landlord has established a claim for \$5,775.00 in unpaid rent and loss of income. The landlord is also entitled to recovery of the \$100.00 filing fee. In a previous decision set down from this office, it was decided that the landlord had collected \$25.00 over the allowable limit for the security deposit. That money was to be put towards January 2011 rent. Since no rent was paid for January or February I order that the landlord retain the \$1000.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$4,875.00. 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 \$4,875.00.

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