



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, 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 unpaid rent and to keep the security deposit; and to recover the filing fee associated with this application.

The landlord participated in the hearing and provided affirmed testimony. He testified that he served the Notice of a Dispute Resolution Hearing to the tenant by way of registered mail sent on March 5th, 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 if so for what amount?

Is the landlord entitled to keep all or part of the security deposit?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of a one bedroom apartment in a multi unit complex. Pursuant to a written agreement, the fixed term tenancy was based on a one year lease starting in February 2006.

The tenancy continued month to month at the end of the fixed term, and the current monthly rent is \$908.00, payable on the 31st of each month. The tenant paid a security deposit of \$362.50.

The landlord testified that he spoke to the tenant three or four days ago, and that the tenant apologized and said that he was trying to the money for the rent. The landlord said that he told the tenant that he still intended to proceed with his application for dispute resolution.

The landlord made a monetary claim for unpaid rent for February and March 2011 totalling \$1816.00.

Analysis

I accept the landlord's undisputed testimony that he served the tenant with the Notice of Dispute Resolution 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.

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 has not filed an application for dispute resolution.

Based on the available evidence, I find that the landlord is entitled to an Order of Possession and a Monetary Order as claimed.

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.

The landlord established a claim of \$1816.00. Since he was successful, the landlord is entitled to recover the \$50.00 filing fee for a claim totalling \$1866.00. I authorize the landlord to keep the tenant's \$362.50 security deposit and pursuant to Section 67 of the Act I grant the landlord a Monetary Order for the balance of \$1503.50.

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: March 18, 2011.

Residential Tenancy Branch