



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, 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, to keep the security deposit, and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement; 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 in person 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 basement suite in a single detached home. Pursuant to a written agreement, the month to month tenancy started on October 2, 2010.

The monthly rent of \$650.00 was payable on the first of each month and the tenant paid a security deposit of \$325.00.

The landlord testified that when he served the tenant with a 10 Day Notice to End Tenancy on March 5th, 2011, the tenant told him that she had no money for the rent and that she was trying to borrow some from her relatives. The landlord said that since the filing of his application the tenant has not paid anything and the amount owing remains the same.

In addition to his request for an order of possession, the landlord made a monetary claim for unpaid rent as follows:

- January 2011: \$ 100.00
- February 2011: \$ 300.00
- March 2011: \$ 650.00
- April 2011: \$ 650.00
- Total: \$1700.00

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 section 89 of 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.

Therefore 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.

Since he was successful, the landlord is entitled to recover the \$50.00 filing fee for a claim totalling \$1750.00. I authorize the landlord to keep the tenant's \$325.00 security deposit and award the landlord a monetary order for the balance of \$1425.00. 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: April 04, 2011.

Residential Tenancy Branch