



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MND, MNR, FF

Introduction

This is an application by the Landlord for an order of possession resulting from a 10 day notice to end tenancy for unpaid rent, a request for a monetary order for damage to the unit, site or property, for unpaid rent and the recovery of the filing fee.

Both parties attended the hearing by conference call and gave affirmed testimony.

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 July 1, 2010 on a month to month basis. The monthly rent is \$500.00 payable on the 1st of each month. A security deposit of \$250.00 was paid on June 16, 2010 as shown in the submitted signed tenancy agreement. Neither party has disputed these facts.

The Landlord states that he served the Tenant with a 10 day notice to end tenancy for unpaid rent on March 5, 2011 by having posted to the rental door. The Landlord has provided a proof of service document completed by the Landlord's wife/witness as well as a photograph submitted for the posting on the door. The Tenant disputes this stating that the 10 day notice was never received. The Tenant states that the photograph of the posting of documents on the door was on March 29, 2011. The Tenant states that's when she received the complete notice of hearing package by the Landlord. The Landlord claims that rent arrears of \$80.00 for January rent, \$500.00 for February, \$500.00 for March and \$500.00 for April is owed. The Landlord states that as of the date of the hearing, all of these rent arrears remain outstanding. The Tenant in her direct evidence agrees that she did not pay rent for March, but that she did pay rent for February. The Tenant stated that she did have a receipt for rent paid in February, but have not provided the evidence. The Tenant states that she tried to pay rent in April, but that the Landlord refused to accept the payment. The Tenant states that the Landlord informed her that he would take the rent, but would still require the Tenant to vacate.

The Landlord has stated that the notice of hearing package was served in person on March 19, 2011 on a Saturday with his wife and mother present. The Tenant disputed receiving the notice and that it was not received on this date, but on March 29, 2011. The Landlord has called as a witness his wife, R.S. to confirm that she personally served the Tenant with the notice of hearing package at the rental unit door.

Analysis

As both parties have attended, I am satisfied that both have been properly served with the notice of hearing documents.

Based upon the direct evidence of both parties and that of the submitted supporting evidence of the Landlord, I am satisfied that on a balance of probabilities that the Tenant was properly served with the 10 day notice to end tenancy for unpaid rent on March 5, 2011. As the Tenant has not paid the rent and has not filed an application for dispute resolution within the allowed time, I find that the Tenant is deemed to accept that the Tenancy is at an end. The Landlord is granted 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 based upon the direct evidence of the Tenant in support of the Landlord's application shows that the Tenant has not paid rent. As such, I find that the Landlord has established a claim for \$1,580.00 in unpaid rent. The Landlord is also entitled to the recovery of the \$50.00 filing fee. I order that the Landlord retain the \$250.00 security deposit in partial satisfaction of the claim and I grant the Landlord an order under section 67 for \$1,380.00. 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 \$1,380.00. 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: April 08, 2011.

Residential Tenancy Branch