



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, OPC, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

The landlord testified that he served his original application for dispute resolution and the notice of hearing on the tenant via registered mail on February 23. A hearing was held on March 9 which neither party attended. The landlord successfully applied for a review of that decision and a new hearing was scheduled for this date. The parties were sent notices of hearing directly from the Residential Tenancy Branch. The tenant did not attend the new hearing. I found that the tenant had been served with notice of the hearing and of the claim made against him and the hearing proceeded in his absence.

Issues to be Decided

Is the landlord entitled to an order of possession?
Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The landlord's undisputed testimony is as follows. The tenancy began in July 2010. Rent in the amount of \$1,000.00 per month is payable in advance on the first day of each month. During the course of the tenancy, the tenant has paid just \$1,800.00 in rent. The landlord testified that the tenant has also failed to pay a utility bill of \$63.12. In December 2010 the landlord served the tenant with a notice to end tenancy. The landlord seeks an award of \$6,700.00 in unpaid rent, \$63.12 in unpaid utilities and \$100.0 for the filing fee paid to bring this application.

Analysis

I accept the landlord's undisputed testimony and I find that at the time the notice to end tenancy was served, the tenant was \$4,200.00 in rental arrears. 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 and did not apply for

dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts 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 for the monetary order, I find that as of the end of February 2011, the date when the landlord filed his application for dispute resolution, the tenant was \$6,200.00 in arrears. I award the landlord \$6,200.00 in rental arrears. The landlord also indicated that he wanted to make a claim for rent for March as the tenant was residing in the rental unit throughout that month. As the landlord only claimed a total of \$6,700.00 in unpaid rent, I find the landlord is limited to \$500.00 for that month and I award him that sum.

I accept the landlord's undisputed testimony that the tenant also owes \$63.12 in unpaid utilities and I award him that sum.

I find that the landlord is also entitled to recover the filing fee paid to bring this application and I award him \$100.00.

I grant the landlord an order under section 67 for \$6,863.12. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court. The landlord may retain the security deposit in partial satisfaction of this award if he holds a security deposit.

Conclusion

The landlord is granted an order of possession and a monetary order for \$6,863.12. The landlord may apply the security deposit to this award if he holds a 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