



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNSD, 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. Both parties participated in the conference call hearing.

Issues to be Decided

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 parties agreed that the tenant is obligated to pay \$720.00 in rent each month which is to be paid in advance on the first day of each month. The parties further agreed that the tenant's cheque for the month of March was returned for insufficient funds and that on March 10 she was served with a 10 day notice to end tenancy.

The tenant testified that she had received a receipt for the month of March and when she made inquiries of the landlord when she received the notice to end tenancy, she was advised that the cheque had been returned. The tenant stated that due to the many demands on her time, she did not pay the rent or dispute the notice to end tenancy within 5 days of having received it.

Analysis

I find that the tenant was served with a notice to end tenancy for non-payment of rent on March 10. Although has many demands on her time, these demands did not relieve the tenant of the obligation to either pay her rent or dispute the notice within 5 days. I find that the tenant is 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, at the hearing the tenant indicated that she would move out within a few days and the landlord stated that he did not wish to proceed with his claim for lost income for April. I find that the tenant failed to pay rent in the month of March and that the landlord is entitled to recover these arrears. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$360.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$410.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court. The claim for loss of income for the month of April is dismissed with leave to reapply.

Conclusion

The landlord is granted an order of possession and a monetary order for \$410.00. 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 01, 2011

Residential Tenancy Branch