



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. 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 \$1,400.00 per month in rent. The parties further agreed that in the months of January – April inclusive, the tenant has paid no rent and that on or about January 14, 2011 she was served with a 10 day notice to end tenancy for unpaid rent.

The tenant testified that she has not paid rent because the landlord's lender has initiated foreclosure proceedings against the landlord and has obtained an *Order Nisi*. The tenant claimed that counsel for the lender advised her that she should no longer pay rent to the landlord. The parties did not submit any record of the court proceedings into evidence, but agreed that there had been no order for an assignment of rents.

Analysis

In the absence of a court ordering that the rents be assigned to the lender or another party, I find that the tenant was obligated to pay rent to the landlord. I find that the tenant was served with a notice to end tenancy on January 14, 2011. 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 the landlord has established a claim for \$5,600.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord an order under section 67 for \$5,650.00. 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 \$5,650.00.

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 15, 2011

Residential Tenancy Branch