



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 hearing dealt with an application by the landlord for an order of possession for unpaid rent, a monetary order for unpaid rent, to keep all or part of the security deposit, compensation for damage or loss and recovery of the filing fee. The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing documents. I found that the tenants had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

On May 2, 2011 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenant has continued to make partial rent payments and currently owes the landlord \$555.00 in unpaid rent for June 2011 and \$50.00 in late fees. The landlord has provided the tenant with a receipt stating '*for use and occupancy only*' for each partial rent payment.

As the tenant is still in the rental unit, the landlord is requesting an order of possession effective 2 days after service upon the tenant. The landlord did state in this hearing that the order of possession would be enforced at the landlord's discretion and that she would continue to work with the tenant to get the rent arrears paid and if possible preserve the tenancy.

As this tenancy may continue the landlord requested to leave the tenant's security deposit in place.

Analysis

Based on the documentary evidence and testimony I find that the tenant was properly 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 and a monetary order for unpaid rent and late fees.

I find that the landlord has established a claim for \$605.00 in unpaid rent and late fees.

The landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I hereby grant the landlord an **Order of Possession**, effective **2 days** after service of the Order upon the tenants. This Order must be served on the tenants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for **\$605.00** in unpaid rent and late fees. The landlord is also entitled to recovery of the \$50.00 filing fee.

A monetary order in the amount of **\$655.00** has been issued to the landlord and a copy of it must be served on the tenant. If the amount is not paid by the tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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: June 7, 2011.

Residential Tenancy Branch