

DECISION

Dispute Codes FF, OPR, MNR

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 participated in the conference call hearing but the tenant(s) did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing by registered mail on July 14, 2011. 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. The landlord gave affirmed evidence.

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 tenancy began on or about April 1, 2011. Rent in the amount of \$790.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$395.00. The tenant failed to pay rent in the month(s) of July and on July 5, 2011 the landlord served the tenant with a notice to end tenancy. The landlord advised that the tenant did pay the rent in full on July 21, 2011 and has paid the August rent in full, however the landlord issued a receipt for use and occupancy only and informed the tenant that they would still be proceeding with the hearing and seeking an order of possession.

Analysis

I accept the landlord's undisputed testimony and 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.

The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain \$50.00 from the security deposit in satisfaction of the claim.

Conclusion

The landlord is granted an order of possession and to withhold \$50.00 from 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: August 11, 2011.

Residential Tenancy Branch