



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF
 MT, CNR, FF

Introduction

This hearing dealt with cross applications by the landlord and tenant. The 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 and recovery of the filing fee. The application by the tenant is to allow a tenant more time to make an application, cancel a notice to end tenancy for unpaid rent and recovery of the filing fee.

The landlords 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 by registered mail.

The tenant was aware of the date and time of the hearing as the tenant's application was scheduled to be heard in conjunction with the landlord's application. The landlords stated that the tenant did not serve them with his hearing documents for this hearing. I found that the tenant 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 either party entitled to any of the above under the Act.

Background and Evidence

This fixed term tenancy began April 5, 2011 with monthly rent of \$950.00 and the tenant paid a security deposit of \$475.00. On July 13, 2011 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenant currently owes the landlord \$475.00 in unpaid rent and a \$25.00 NSF cheque charge for July 2011 and \$950.00 unpaid rent for August 2011 for a total of \$1450.00 owed to the landlords.

The landlords stated that they had been communicating with the tenant regarding a rent reduction while repairs were being made to the rental unit as the tenant had flooded the rental unit and common areas of the building and that repairs that been extensive.

The landlords said that they had made an agreement with the tenant to reimburse \$475.00 of the July rent if the repairs to the condo were not completed. The landlords stated that the tenant in the mean time put a stop payment on the July rent cheque and in late July stopped communicating with the landlords all together.

The landlords then did not receive any rent for August 2011 and at this time do not know if the tenant is still occupying the rental unit.

The landlords in this application are seeking a monetary order for \$1450.00 for unpaid rent and loss and an order of possession for unpaid rent.

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 complete service of the hearing documents to the landlords when he applied 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.

Accordingly I find that the landlord is entitled to a monetary order for \$1450.00.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

As the tenant did not participate in the hearing the tenant's application is hereby dismissed in its entirety without leave to reapply.

The tenant is not 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 tenant. This Order must be served on the tenant 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 \$1450.00 in unpaid rent and loss. The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord a monetary order under section 67 for the amount of **\$1450.00**.

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: August 29, 2011.

Residential Tenancy Branch