



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent; to keep the security deposit; and to recover the filing fee associated with this application.

The tenants in this matter made an application for dispute resolution to seek cancellation of the landlord's 10 Day Notice to End Tenancy dated May 20th, 2011. A hearing over which I presided on July 19th, 2011, resulted in a finding that the landlord's notice to end tenancy was valid; however the landlord did not make an oral request for an order of possession. This hearing is now convened as a result in part of the landlord's own application for an order of possession, in relation to the above noted decision.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to keep all or part of the security deposit?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of a basement suite. Pursuant to a written agreement, the month to month tenancy started in September 2010. The rent is \$750.00 per month and each tenant paid a security deposit of \$175.00 for the sum of \$350.00.

Through an interpreter, the landlord's wife claims that she did not receive the rent for March 2011. She testified that her husband went to the tenants in March to collect the rent before leaving for Taiwan, but that the tenants did not pay. The landlord's wife said that tenant L.C. has already vacated, but that his belongings are still in the suite.

The tenant does not dispute that he did not pay rent; he disputes that rent was paid through direct payment from the Ministry of Social Services. He stated that he inquired with the Ministry and confirmed that a rent cheque was sent to the landlord for that month; however they did not provide him with documentary proof on time for the hearing.

Analysis

Based on the July 19th, 2011 decision, I find that this matter is already resolved concerning the end of the tenancy and accordingly, the landlord is entitled to an order of possession.

The party who makes the application for dispute resolution bears the burden to prove his claim. Concerning the unpaid rent, that burden was on the landlord. There was no documentary evidence before me from the landlord. I find this uncharacteristic of a landlord whose primary role in a tenancy is to ensure rent is paid by his tenants. He did not provide any sort of records, such as any ledger, account book or rental receipts to support his claim. I find that the landlord has not proven on a balance of probabilities that he did not receive rent for March 2011.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord's application for a monetary order is dismissed.

Since the landlord's application had merit, I find the landlord entitled to recover the filing fee of \$50.00, which I authorize the landlord to deduct from the tenant's 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 29, 2011.

Residential Tenancy Branch