



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNR, MNDC, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession for cause and unpaid rent; and a Monetary Order for unpaid rent and damage or loss under the Act, regulations or tenancy agreement. The tenant did not appear at the hearing. The landlord testified that the tenant was served with the hearing documents via registered mail sent to the rental unit on July 15, 2011. The landlord confirmed the tenant continues to reside in the rental unit and provided a registered mail tracking number as proof of service. I accepted that the tenant was served with notification of this hearing in a manner that complies with the Act and I proceeded to hear from the landlord without the tenant present.

Issue(s) to be Decided

1. Has the landlord established an entitlement to an Order of Possession?
2. Has the landlord established an entitlement to compensation for unpaid rent and loss of rent for July and August 2011?

Background and Evidence

The tenancy commenced September 11, 2011 and the tenant is required to pay rent of \$985.00 on the 1st day of every month. The tenant did not pay a security deposit although one was required under the tenancy agreement.

The landlord submitted that on June 13, 2011 the landlord posted a 1 Month Notice to End Tenancy for Cause (the Notice) on the tenant's door in the presence of a witness. The Notice has a stated effective date of July 31, 2011. The tenant did not file an Application for Dispute Resolution to dispute the Notice and continues to occupy the rental unit.

The landlord submitted that rent cheque for July 2011 was returned for insufficient funds. The tenant has not provided alternative payment for July 2011 and has not paid any monies for use and occupancy for August 2011.

Documentary evidence provided by the landlord included as copy of the 1 Month Notice to End Tenancy, a copy of Proof of Service document for the 1 Month Notice signed by the witness, the returned cheque for July 2011, and a letter dated January 20, 2011 from the person who provided the landlord with rent cheques on behalf of the tenant.

Analysis

Under section 47 of the Act, where a tenant receives a 1 Month Notice to End Tenancy, the tenant has 10 days to file an Application for Dispute Resolution to dispute the Notice. If the tenant does not dispute the Notice the tenant is conclusively presumed to have accepted that the tenancy will end on the effective date of the Notice and vacate the rental unit by that date.

I accept that the tenant was served with the 1 Month Notice as declared by the landlord and did not dispute the Notice. Accordingly, I find the tenancy ended July 31, 2011 and since the tenant has not returned possession of the unit to the landlord the landlord is entitled to an Order of Possession. The landlord is provided with an Order of Possession effective two (2) days after service upon the tenant. The Order of Possession may be filed in The Supreme Court of British Columbia to enforce as Order of the court.

I accept the landlord's evidence that the tenant has failed to pay rent for July 2011 and since the tenant has not vacated the rental unit I accept that the landlord has suffered a loss of rent for August 2011. Therefore, I grant the landlord's request for compensation in the amount of \$1,970.00 for the months of July and August 2011.

I further award the filing fee paid for this application to the landlord. Accordingly, the landlord is provided a Monetary Order in the total amount of \$2,020.00 to serve upon the tenant and enforce in Provincial Court (Small Claims) as necessary.

Conclusion

The tenancy has ended and the landlord has been provided an Order of Possession effective two (2) days after service upon the tenant.

The landlord has been provided a Monetary Order in the amount of \$2,020.00 to serve upon the tenant.

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