

DECISION

Dispute Codes: OPR, MNR and FF

Introduction

By application of July 26, 2011, the landlord sought an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served in person on July 6, 2011. The landlord also sought a Monetary Order for unpaid rent and recovery of the filing fee for this proceeding.

Despite having been served with the Notice of Hearing in person on July 28, 2011, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issues to be Decided

This dispute requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent and recovery of the filing fee for this proceeding.

Background and Evidence

As the landlord had only taken possession of the rental unit approximately three months previously, his agent was not certain when the tenancy began but expressed the belief that it was about three years ago. Rent is \$500 per month.

During the hearing, the landlord gave evidence that the Notice to End Tenancy of July 6, 2011 had been served after the tenant had failed to pay rent for July 2011. In the interim, the landlord stated that July rent remained unpaid and the tenant had not paid rent for August 2011. The landlord stated that the tenant appeared to be in the process of moving but he requested the Order of Possession for assurance..

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due.

Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenant did not make application to contest the Notice to End Tenancy and rent remains unpaid. Therefore, under section 46(5) of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy.

Consequently, I find that the landlord is entitled to an Order of Possession effective two days from service of it on the tenant.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent for July and August 2011 and to recover the filing fee for this proceeding from the tenant.

Thus, I find that the tenant owes to the landlord an amount calculated as follows:

July 2011 rent	\$ 500.00
August 2011 rent	500.00
Filing fee	50.00
TOTAL	\$1,050.00

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect two days from service of it on the tenant.

In addition to authorization to retain the security deposit in set off against the balance owed, the landlord's copy of this decision is also accompanied by a Monetary Order for \$1,050.00, enforceable through the Provincial Court of British Columbia, for service on the tenant.

August 26, 2011