

DECISION

Dispute Codes: Landlord: OPR, MNR and FF
 Tenants: CNR

Introduction

These applications were brought by both the landlord and the tenants.

By application of July 11, 2011, the landlord seeks an Order of Possession pursuant to a Notice to End Tenancy for unpaid rent served on July 5, 2011, a Monetary Order for unpaid rent and recovery of the filing fee for this proceeding.

By application also of July 11, 2011, the tenant sought to have the Notice to End Tenancy of July 5, 2011 set aside.

Despite having made application and having been served with the Notice of Hearing on the landlord's application, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing.

Therefore, the tenant's application is dismissed without leave to reapply and the hearing proceeded on the landlord's application.

Issues to be Decided

This matter requires a decision only on whether the landlord is entitled to an Order of Possession and a Monetary Order for the unpaid rent.

Background and Evidence

This tenancy began on December 1, 2010. Rent was \$750 per month and there was no security deposit.

During the hearing, the landlord advised that the tenant has been in the process of moving for the past three days but he stated that would like to have an Order of Possession to assure his right to occupy the rental unit. The tenant has not returned key or left a forwarding address.

The landlord stated that after the tenant moved in on December 1, 2010, he paid the first two months rent on time.

However, he stated that in the interim, the tenant has paid no rent despite a series of postponements and promises and at the time the landlord served notice the tenant had accumulated arrears of six months' rent.

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due irrespective of any alleged non-compliance of the landlord with the legislation or rental agreement, for which other remedies are available.

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 make the application but did not appear, and has not paid the overdue rent.

Therefore, 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 and recovery of the filing fee for this proceeding calculated as follows:

The landlord claims, and I find that he is entitled to a Monetary Order for unpaid rent of \$3,750.00 in unpaid rent. In addition, having found merit in the landlord's application, I find that he is entitled to recover the \$50 filing fee for this proceeding, for a total Monetary Order for \$3,800.00.

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.

The landlord's copy of this decision is also accompanied by a Monetary Order for \$3,800.00, enforceable through the Provincial Court of British Columbia, for service on the tenant.

The landlord remains at liberty to make application for any damages as may be ascertained at the end of the tenancy.

August 8, 2011