

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This is an application filed by the Landlord for an order of possession resulting from a 10 day notice to end tenancy for unpaid rent, a monetary order request for unpaid rent, late fees and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Background and Evidence

This Tenancy began on June 1, 2006 on a fixed term tenancy for 6 months until November 30, 2006 and then thereafter on a month to month basis as shown in the submitted copy of the signed tenancy agreement. The current monthly rent is \$2,696.00 payable on the 1st of each month and a security deposit of \$1,250.00 was paid and is held in trust by the Landlord.

The Landlord states that the notice of hearing and evidence package was personally delivered by her on August 19, 2011 to the Tenant. The Landlord states that Tenant signed a copy of the notice as confirmation that she received it.

The Landlord states that the Tenant was served the 10 day notice to end tenancy for unpaid rent on August 2, 2011 by posting it to the rental unit door and has provided a proof of service document witnessing the service. The Landlord states that although the notice states that the August monthly rent of \$2,696.00 was unpaid as of August 2, 2011, that later she determined that the Tenant's July rent payment was returned from the bank as Non-Sufficient Funds (NSF). The Landlord states that no rent payments have been made up to the date of this hearing. The Landlord is seeking rent arrears for July, August and September of 2011, totalling \$8,148.00. The Landlord is also seeking the late rent fees for the same 3 months, totalling \$60.00 as stipulated in clause 3(a) in the Tenancy Agreement for \$20.00 late rent payments.

The Landlord states that the Tenant still occupies the rental unit.

Analysis

I accept the Landlord's undisputed testimony and I find that the Tenant was served with a notice to end tenancy for unpaid rent. The Tenant did not pay the outstanding rent within the 5 days of receiving the notice and did not apply 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 upon the above facts I find that the Landlord is entitled to an order of possession. The Tenant must be served with the order of possession. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

As for the monetary order, I find that the Landlord has established a claim for \$8,148.00 in unpaid rent and \$60.00 in late rent fees. The Landlord is also entitled to recovery of the \$100.00 filing fee. I order that the Landlord retain the \$1,250.00 security deposit and \$41.60 in interest which has accrued to the date of this judgement in partial satisfaction of the claim and I grant the Landlord a monetary order under section 67 for the balance due of \$6,956.40. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted an order of possession and a monetary order for \$6,956.40. The Landlord may retain the 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: September 21, 2011.

Residential Tenancy Branch