

DECISION

Dispute Codes OPR, MNR, 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 for unpaid rent, NSF Charges 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 for unpaid rent, NSF charges or recovery of the filing fee?

Background and Evidence

This Tenancy began on November 1, 2009 on a month to month basis as shown in the submitted copy of the signed tenancy agreement. The monthly pad rental rate is \$330.00 payable on the 1st of each month.

The Landlord states that the Tenant was personally served with the notice of hearing documents on August 31, 2011. The Landlord states that she has had contact with the Tenant since service of the notice of hearing documents which he has confirmed receipt of and his intent to pay the rent arrears as soon as possible. The Landlord state the Tenant was served the 10 day notice to end tenancy for unpaid rent on August 8, 011 by posting it on the rental door. The Landlord states that the Tenant failed to pay the July pad rental on time. The Landlord states that they received a pad rental cheque from the Tenant on July 7, 2011 which was returned NSF by the bank. The Landlord received a further cheque from the Tenant on July 25, 2011 for July and August 2011 rent. The cheque was returned NSF by the bank again. The Landlord is seeking recovery of the July and August 2011 pad rental of \$330.00 each, totalling \$660.00. The Landlord is also seeking \$20.00 for each NSF cheque returned by the bank totalling \$40.00. The Landlord cites clause 3 (a) (i), which states that the Tenant agrees to pay fees for cheques returned by the bank for any reason, including insufficient funds; \$25.00 per cheque.

Analysis

I accept the Landlord's undisputed testimony and I find that the Tenant was served with the 10 day notice to end tenancy for non-payment of rent. The Tenant did not pay the outstanding rent within 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 on 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 \$660.00 in unpaid rent and \$40.00 for NSF Charges. The Landlord is also entitled to recovery of the \$50.00 filing fee. I grant the Landlord a monetary order under section 60 for the balance due of \$750.00. 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 \$750.00.

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 28, 2011.

Residential Tenancy Branch