



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent, a monetary order for unpaid rent and recovery of the filing fee. Both parties participated in the conference call hearing and gave affirmed testimony.

Background and Evidence

This tenancy began November 1, 2009 with monthly rent of \$1000.00 and the tenant paid a security deposit of \$500.00. On July 25, 2011 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent. The tenant has not filed to dispute this notice.

The landlord per section 64(3) (c) of the Residential Tenancy Act requested to amend the application to include the \$525.00 balance of the unpaid September 2011 rent and the tenant consented to this amendment of the landlord's application.

The landlord testified that he has been working with the tenant and that there is currently a balance of \$525.00 rent owing for September 2011 and that the July and August rent have not been paid in full. The landlord stated that he has accepted rent from the tenant, that he was very clear in his communication with the tenant and advised the tenant that the eviction notice was still in effect.

The landlord stated that as the tenant has resided at the property for a substantial length of time he is willing to continue to work with the tenant and will allow the tenant to remain in the rental unit until September 30, 2011. The landlord stated that he would like the order of possession to have an effective date of September 30, 2011 and this will allow the tenant time to find a new roommate and get the balance of the September 2011 rent paid.

The tenant testified that although she had paid most of the rent owed to the landlord she clearly understood that the eviction notice was still in effect. The tenant inquired as to whether or not the notice was in effect for the month of October 2011 and it was clarified for both parties that if the September 2011 rent is paid in full, the landlord would be required to issue a new 10 day notice for unpaid rent if the October rent is not paid.

Analysis

Based on the documentary evidence and testimony I find that the tenant was properly served with a 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 and a monetary order for unpaid rent.

The landlord and tenant agreed to an end of tenancy date of September 30, 2011 for the order of possession and the landlord stated that if the \$525.00 balance of the September 2011 rent is paid in full before that date he will not enforce the order of possession and the tenancy will remain in place.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I hereby grant the landlord an **Order of Possession** effective not later than **1:00 PM, September 30, 2011**. This Order must be served on the tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$525.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I grant the landlord a monetary order under section 67 for the amount of **\$575.00**.

If the amount is not paid by the tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order of that court.

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 8, 2011

Residential Tenancy Branch