

DECISION

Dispute Codes FF, MNR, MNSD, OPC, OPR, CNR, AS

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenant also made an application seeking to have the 10 Day Notice to End Tenancy for Unpaid Rent and Utilities set aside. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Is the tenant entitled to have the Notice set aside?

Background and Evidence

The tenancy began on or about March 1, 2011. Rent in the amount of \$1050.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$525.00. The tenant failed to pay rent in the month(s) of August and on August 2, 2011 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of September 2011 as well as \$201.97 in unpaid utilities.

Both parties agree that a payment of \$520.00 for use and occupancy was made by the tenant on August 7, 2011. The remaining amount sought by the landlord is \$1781.97 in unpaid rent and utilities.

The tenant does not dispute any of the testimony provided by the landlord. The tenant testified that it was her full intention to pay the rent and outstanding utilities bill but was unable to due to her roommate assaulting her and "making things really hard for her".

Analysis

I accept the landlord's undisputed testimony and I find that the tenant was 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. 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 \$1781.97 in unpaid rent and utilities. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$525.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1306.97. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

The landlord has been successful in his application.

The tenant has not provided any evidence and is in agreement with the facts as stated by the landlord.

The tenant's application is dismissed without leave to reapply.

Conclusion

The landlord is granted an order of possession and a monetary order for \$1306.97. 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 08, 2011.

Residential Tenancy Branch