

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent and recovery of the filing fee.

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

At the beginning of the hearing the Landlord stated that the Tenants are still in possession of the rental unit and have not paid rent for October 2011. The Landlord states that the notice of hearing package sent by Canada Post Registered Mail on September 22, 2011 was returned by Canada Post on October 13, 2011 as unclaimed.

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 May 1, 2011 on a fixed term tenancy of 6 months ending on October 31, 2011 as shown in the submitted copy of the signed tenancy agreement. The monthly rent is \$850.00, payable on the 1st of each month and the Landlord holds in trust a \$425.00 security deposit.

The Landlord states that the notice of hearing and evidence package was sent by registered mail on September 22, 2011 and has provided the Registered Mail Tracking Number for each of the two Tenants. The Landlord states that these two packages were returned by Canada Post as unclaimed after leaving notices to pick them up at the local Canada Post Office.

The Landlord states that the Tenants were served with a 10 day notice to end tenancy on September 4, 2011 by posting it on the door of the rental unit. The notice dated September 4, 2011 states that unpaid rent of \$850.00 was unpaid as of that date. The notice displays an effective move-out date of September 13, 2011. The Landlord states that no rent has been paid. The Landlord is seeking unpaid rent of \$850.00 for

September 2011, a \$25.00 late rent fee as shown in the submitted signed tenancy agreement, \$850.00 of unpaid rent for October 2011 and a \$25.00 late rent fee for October 2011, totalling, \$1,750.00.

Analysis

I accept the Landlord's undisputed testimony and I find that the Tenant was deemed served with the notice of hearing documents sent on September 22, 2011.

I also accept the Landlord's undisputed testimony and I find that the Tenant was served with the 10 day notice to end tenancy for unpaid rent which was posted on the rental unit door on September 4, 2011. 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. The date shown of September 13, 2011 is automatically corrected to September 14, 2011 as the effective date. 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 \$1,700.00 in unpaid rent and \$50.00 in late fees, totalling \$1,750.00. 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 balance due of \$1,800.00. 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 \$1,800.00.

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: October 20, 2011.

Residential Tenancy Branch