



Dispute Resolution Services

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 and a monetary order. Despite having been personally served with the application for dispute resolution and notice of hearing on September 14, the tenant did not participate in the conference call hearing.

At the hearing, the landlord asked to amend his claim to include a claim for lost income for October. I find that the tenant should reasonably have known that the landlord could not re-rent the unit while he was still residing therein and I therefore allow the amendment.

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?

Background and Evidence

The landlord's undisputed testimony is as follows. The tenant is obligated to pay \$950.00 in rent in advance on the first day of each month. The tenant failed to pay rent in August and September 2011 and on September 6 the landlord personally served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month of October.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant did not pay rent in the months of August and September and on September 6 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 is entitled to recover the unpaid rent and loss of income for the months of August – October inclusive as well as the \$50.00 filing fee paid to bring this application. I grant the landlord an order under section 67 for \$2,900.00. 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 \$2,900.00.

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 12, 2011

Residential Tenancy Branch