



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

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. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on September 22, 2011, the tenant did not participate in the conference call hearing.

At the hearing, the landlord asked to amend her claim to include a loss of income for the month of October. I find that the tenant should reasonably have known that the landlord could not re-rent the unit while she was residing therein and I 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 tenancy originally began in July 2010 at which time the tenant paid a \$392.50 security deposit. Rent in the amount of \$785.00 is payable in advance on the first day of each month. The tenant failed to pay \$5.00 of her rent in July 2011, \$25.00 of her rent in August 2011 and paid no rent whatsoever in September 2011. On September 2 the landlord served the tenant with a notice to end tenancy by posting the notice on the door of the rental unit. The tenant further failed to pay rent in October. The landlord seeks an order of possession and recovery of the arrears, a late payment fee for September, loss of income for October and the filing fee paid to bring this application.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant did not pay the full rent for the months of July – September inclusive. Pursuant to section 90 of the Act, I find that the notice to end tenancy which was posted on the tenant's door was received by the tenant on September 5. 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 \$5.00 in unpaid rent for the month of July, the \$25.00 in unpaid rent for the month of August, the \$785.00 in unpaid rent for the month of September, a \$25.00 late payment charge for September pursuant to the terms of the tenancy agreement, \$785.00 in lost income for October and the \$50.00 filing fee paid to bring this application for a total entitlement of \$1,675.00. I order that the landlord retain the \$392.50 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,282.50. 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 \$1,282.50. 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: October 20, 2011

Residential Tenancy Branch