



Dispute Resolution Services

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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 for unpaid rent, a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee.

The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing by registered mail. I found that the tenant had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

This tenancy began August 1, 2011 with monthly rent of \$650.00 and the tenant paid a security deposit of \$375.00. On September 13, 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 testified that the tenant has not paid the \$250.00 balance of the September 2011 rent or the \$650.00 October 2011 rent and currently owes the landlord \$900.00 in unpaid rent. The landlord stated that the tenant has also moved in 3 or 4 people that are not part of the tenancy. The landlord stated that the rental unit is non-smoking and this is noted in the tenancy agreement addendum however the tenant and his friends constantly smoke in and around the rental unit.

The landlord stated that the tenant had agreed to vacate the end of September but that he has refused to leave and remains in the rental unit.

As the tenant and his friends remain in the rental unit the landlord has requested an order of possession effective 2 days after service upon the tenant and all occupants.

The landlord is also seeking \$900.00 compensation in unpaid rent.

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.

Accordingly I find that the landlord is entitled to a monetary order for \$900.00.

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 **2 days** after service of the Order upon the tenant(s) and all occupants. This Order must be served on the tenant(s) and all occupants 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 \$900.00 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 **\$950.00**.

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: November 1, 2011.

Residential Tenancy Branch