



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, FF
OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with cross applications by the landlord and tenant. The application by the tenant is to cancel a notice to end tenancy for unpaid rent and recovery of the filing fee. The application by the landlord is for an order of possession for unpaid rent, a monetary order for unpaid rent, money owed or compensation for damage or loss, 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 tenants did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing documents. I found that the tenants 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.

The landlord's claim was filed after the tenants had filed their claim and scheduled to be heard with the tenant's application.

Issue(s) to be Decided

Is either party entitled to any of the above under the Act.

Background and Evidence

This tenancy began July 3, 2011 with monthly rent of \$1500.00 and the tenants paid a security deposit of \$750.00. On October 1 and October 11, 2011 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord testified that the October and November 2011 rent remains unpaid and that the tenants owe the landlord \$3000.00 in unpaid rent. The landlord stated that the tenants remain in the rental unit and that the landlord's property is not being cared for by the tenants.

As the tenants remain in the rental unit the landlord is seeking an order of possession effective 2 days after service upon the tenants. The landlord is also seeking a monetary order for \$3000.00 in unpaid rent.

Analysis

Based on the documentary evidence and testimony I find that the tenants were properly served with a notice to end tenancy for non-payment of rent. The tenants did not pay the outstanding rent within 5 days of receiving the notice. The tenants did apply for dispute resolution to dispute the notice however did not attend the hearing and therefore are 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 \$3000.00.

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). This Order must be served on the tenant(s) 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 \$300.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep the tenant's \$750.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$2300.00**.

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 2, 2011.

Residential Tenancy Branch