



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM 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. Both parties participated in the conference call hearing.

Issue(s) to be Decided

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

Background and Evidence

On October 3, 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.

At the start of the hearing the tenant requested to address an issue regarding the service of documents. The tenant stated that a few days prior to this hearing he went to one of the downtown outreach offices and spoke to a Residential Tenancy Branch Information Officer about the documents the landlord had served on him. The tenant stated that he was never served the application for dispute resolution on October 16, 2011 when served by the landlord, therefore as the tenant had no idea what the hearing was about the hearing should not proceed.

The landlord testified that he had in fact served all of the documents on the tenant and that this was not a mistake he had ever made as he was well aware of what documents had to be served. The landlord stated that he also had a witness with him when he served the documents on the tenant which the tenant denied..

The landlord's witness gave affirmed testimony and confirmed the landlord's testimony regarding service of the documents on the tenant however he did not remember what documents were included in the package.

The tenant maintained that the application for dispute resolution was not served on him by the landlord and refuted both the landlord's and landlord's witness's testimony that the witness was present at the time of service.

After careful consideration and based on the testimony of the landlord and landlord's witness I found that the tenant was properly served with the documents for this hearing and the hearing proceeded.

The landlord testified that the tenant has not paid the October or November 2011 rent and currently owes the landlord \$1000.00 in unpaid rent. The tenant acknowledged that he had not paid the October or November 2011 rent.

The landlord in this application is seeking a monetary order in the amount of \$500.00 for the October 2011 rent and an order of possession for the rental unit.

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 \$500.00.

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 \$500.00 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 **\$550.00**.

If the amount is not paid by the tenant(s), the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order of that court.

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 8, 2011.

Residential Tenancy Branch