

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This is an application filed by the Landlord for an order of possession, a monetary order request for unpaid rent and recovery of the filing fee.

The Landlord attended the hearing in person and gave undisputed testimony. The Tenant did not attend. The Landlord provided at the hearing a Canada Post Registered Mail Receipt which he states was sent on November 18, 2011 containing the notice of hearing and evidence package. On this basis, I find that the Tenant was properly served by registered mail and deemed served 5 days later on November 23, 2011.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Background and Evidence

This Tenancy began on January 16, 2011 on a fixed term tenancy until January 15, 2012 as shown in the submitted copy of the signed tenancy agreement. The monthly rent is \$1,800.00 and is payable on the 16th of each month. A security deposit of \$900.00 was paid on December 19, 2010.

The Landlord states that the Tenants were served the 10 day notice to end tenancy for unpaid rent on October 27, 2011 as shown in the proof of service submitted. The Landlord states that the notice dated October 17, 2011 was a clerical error and should have been October 27, 2011. The notice displays rent due on October 16, 2011 of \$1,800.00 and an effective date of October 26, 2011. The effective date is corrected to November 6, 2011.

The Landlord states that the rent was not paid for the months of October and November and that the Tenant still resides at the rental unit as of the date of this hearing. The Landlord stated that on December 11, 2011 the Landlord received a partial rent payment of \$900.00. The Landlord stated that he still wished for an order of possession and that he applied the partial payment of \$900.00 to the rent owed for October. The

Landlord states that the current rent arrears is \$2,700.00 for ½ of October rent and all of November.

Analysis

I accept the Landlord's undisputed testimony and I find that the Tenant was served with a notice to end tenancy for unpaid 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 presume to have accepted that the tenancy ended. Based upon 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 has established a claim for \$2,700.00 in unpaid rent for ½ of October and all of November. The Landlord is also entitled to recovery of the \$50.00 filing fee. I grant the Landlord an order under section 67 for the balance due of \$2,750.00. 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 \$2,750.00.

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: December 12, 2011.

Residential Tenancy Branch