



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened by way of conference call in response to an application made by the landlords for an Order of Possession for unpaid rent or utilities, for a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenant for the cost of this application.

An agent for the landlord company attended the conference call hearing and gave affirmed testimony. The agent also testified that the agent personally served the Landlord's Application for Dispute Resolution and notice of hearing upon the tenant on December 6, 2011. The tenant did not attend the hearing. I accept the testimony of the landlord's agent and find that the tenant was served in accordance with the *Residential Tenancy Act*. The testimony provided by the landlord's agent has been considered in this Decision.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession for unpaid rent or utilities?

Are the landlords entitled to a monetary order for unpaid rent or utilities?

Background and Evidence

The landlord's agent testified that this fixed term tenancy began on November 15, 2011 and expires on December 1, 2012, and the tenant still resides in the rental unit. Rent in the amount of \$775.00 per month is payable in advance on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$387.50 as well as a pet damage deposit in the amount of \$387.50, but the landlord testified that both cheques were returned N.S.F.

The landlord's agent further testified that the tenant provided a total of 4 cheques at the outset of the tenancy, being the 2 cheques for the security deposit and pet damage deposit, a cheque in the amount of \$387.50 for the partial rent for the month of

November, 2011 and a cheque in the amount of \$775.00 for December's rent, all of which have been returned by the financial institution marked "Insufficient funds."

On November 22, 2011 the landlord's agent personally served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The notice is dated November 22, 2011 and contains an effective date of vacancy of December 2, 2011. The landlord's agent further testified that both pages of the 2 page form were hand delivered to the tenant. The tenant has not served the landlord with an application for dispute resolution disputing the notice.

The landlord claims an Order of Possession and a monetary order in the amount of \$1,162.50 for the unpaid rent for November, 2011 and December, 2011.

Analysis

The *Residential Tenancy Act* states that if the tenant does not pay rent when it is due, the landlord may issue a notice to end the tenancy. Once served, the tenant has 5 days to pay the rent in full, in which case the notice is of no effect, or apply for dispute resolution to dispute the notice. If the tenant does neither, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice. In the circumstances, I accept the testimony of the landlord's agent that the tenant was served with the notice on November 22, 2011. The tenant did not pay the outstanding rent or apply for dispute resolution by November 27, 2011.

I further find that the landlord is entitled to an Order of Possession.

As for the monetary order, I also find that the landlord has established a claim for unpaid rent for the months of November and December, 2011 in the amount of \$1,162.50. The landlord is also entitled to recovery of the \$50.00 filing fee for the cost of this application.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favor of the landlord on 2 days notice to the tenant. The tenant must be served with the Order of Possession. If the landlord serves the order on the tenant and the tenant fails 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.

I further grant a monetary order in favor of the landlord an order pursuant to section 67 of the *Residential Tenancy Act* in the amount of \$1,212.50. This order may be filed in the Provincial Court of British Columbia, Small Claims division 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: December 23, 2011.

Residential Tenancy Branch