



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession for unpaid rent; a Monetary Order for unpaid rent; and to recover the filing fee associated with this application.

The landlord and her agent participated in the hearing and provided affirmed testimony. The landlord's agent testified that he served the Notice of a Dispute Resolution Hearing to the tenant in person on January 12th, 2012. The tenant did not participate and the hearing proceeded in the tenant's absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of a basement suite in a single detached home. The landlord's agent testified that the tenant is a friend of the landlord's husband and that for this reason a tenancy agreement was not made in writing. He stated that the tenancy started on October 21st, 2011, that the rent was \$700.00 per month, and that the tenant did not pay a security deposit.

The landlord's agent stated that the tenant has not paid any rent since moving in on October 21st, 2011. He stated that the landlord served the tenant with a 10 Day Notice to End Tenancy in person on January 2nd, 2012, with an effective date of January 12th, 2012, and that to this date the tenant has not moved out of the rental unit.

The landlord is claiming unpaid rent for November and December 2011, January 2012, and \$175.00 for October 2011 based on a per diem rate.

Analysis

I accept the landlord's agent's undisputed testimony that he served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a notice to end tenancy for non-payment of rent does not pay the rent or makes an application for dispute resolution within 5 days, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit by that date. The tenant in this matter has not filed an application for dispute resolution. The landlord's Notice to End Tenancy is valid and on that basis the landlord is entitled to an order of possession.

I also accept the undisputed testimony concerning unpaid rent and find that the landlord is entitled to recover the loss of rental income as claimed.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant.

This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord established a claim of \$2275.00. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 67 of the Act, I grant the landlord a Monetary Order totalling \$2325.00.

This Order may be registered in the Small Claims Court 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: January 30, 2012.

Residential Tenancy Branch