



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, 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 and recovery of the filing fee.

The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing in person. I found that the tenant 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.

Issue(s) to be Decided

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

Background and Evidence

On September 12, 2011 the landlord served the tenant with a 2 Month Notice to End Tenancy for Landlord's use of Property. This notice is dated August 6, 2011 and reflects an end of tenancy date of October 31, 2011 which was then mutually changed to December 12, 2011.

The landlord testified that the tenant requested a 1 month extension on the 2 month notice to end tenancy and the landlord agreed to the extension. The landlord stated that the tenant however stopped paying rent as of September 2011 and did not vacate the rental unit until January 6 or 7 2012.

The landlord in this application is seeking unpaid rent for October, November and December 2011 and January 2012. The landlord was also seeking an order of possession for the rental unit however as the tenant has vacated the rental unit this portion of the landlord's application is hereby dismissed.

Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds for entitlement to a monetary order for unpaid rent.

The landlord is entitled to recover the \$800.00 unpaid rent for October, \$800.00 unpaid rent for November 2011 and \$200.00 for the unpaid January 2012 rent. The landlord is not entitled to recover the \$800.00 unpaid rent for December 2011 as the tenant is entitled to 1 month's rent compensation when given a 2 month notice to end tenancy for landlord's use of property.

Accordingly I find that the landlord is entitled to a monetary order for \$1800.00.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I find that the landlord has established a monetary claim for \$1800.00 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 \$400.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$1450.00**.

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: January 9, 2012

Residential Tenancy Branch