

DECISION

Dispute Codes OPR, MNR, FF

Introduction

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

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend. The Landlord states that the Tenant was served with the notice of hearing and evidence packages by registered mail on January 20, 2012. The Landlord has submitted a copy of the Canada Post Registered Mail Customer Receipt as evidence. As such, I find that the Tenant was properly served under the Act.

The Landlord has included a second respondent, S.W. which she claims is an occupant. I also note that the Landlord has failed to provide any evidence of service on this individual for the hearing. In the absence of a signed tenancy agreement listing this person, I direct that the respondent, S.W. be removed as a respondent in this application. All subsequent documents will reflect this.

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

The Landlord states that the monthly rent is \$865.00 and a security deposit of \$380.00 was paid. The Landlord seeks an order of possession and a monetary order for unpaid rent for January and February 2012. The Landlord states that a 10 day notice to end tenancy for unpaid rent was issued on January 3, 2012 and served by posting it on the rental unit door on January 3, 2012. The Landlord has included in the evidence a proof of service document witnessed by the assistant manager. The notice displays rent of \$865.00 and a late fee of \$20.00 was owed as rent was due on January 1, 2012. The effective date of the notice was January 13, 2012. The Landlord states that there is a signed tenancy agreement, but has not submitted a complete copy of such. The Landlord further states that the Tenant appears to have moved out, but is unsure as there is still some possession left.

Analysis

I accept the Landlord's undisputed testimony and I find that the Tenant was served with the 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 presumed to have accepted that the tenancy ended on the effective date of the notice. 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 \$865.00 in unpaid rent for January 2012. I find based upon the Landlord's direct testimony that the claim for February rent is uncertain and dismiss this portion of the claim with leave to reapply. The Landlord is entitled to recovery of the \$50.00 filing fee. I grant the Landlord a monetary order under section 67 for \$915.00. 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 \$915.00.

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: February 07, 2012.

Residential Tenancy Branch