



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Background and Evidence

The tenancy began in 2006 at which time a \$250.00 security deposit was paid. Rent in the amount of \$500.00 is payable in advance on the first day of each month. The landlord claimed that the tenant failed to pay rent in the month of October – February inclusive and that on February 2 the landlord served the tenant with a notice to end tenancy by posting it on his door and sending it via registered mail. The tenant initially denied having received the notice to end tenancy, insisting that all he had received was the application for dispute resolution. The landlord testified that the tenant had signed for the registered letter on February 13, which the tenant eventually acknowledged. The tenant claimed that the documents received via registered mail on February 13 were the application for dispute resolution and notice of hearing, but when it was pointed out to him that the application had not been filed until the next day, February 14, the tenant acknowledged that he did not have the documents received on February 13 in front of him and that he may not have opened the envelope.

The tenant claimed that he paid rent for October, November and December but did not enter into evidence any proof that he had done so.

Analysis

In the absence of compelling evidence to prove that rent was paid, I find that the tenant did not pay rent for the month of October – February inclusive. Although the tenant claimed that he had not received a notice to end tenancy, his testimony was so contradictory and evasive, I prefer the evidence of the landlord. I find that the landlord posted the notice on the door of the rental unit on February 2 and that the tenant is

deemed to have received the notice on February 5. I further find that he also received the notice via registered mail on February 13. 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 on 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 is entitled to recover the unpaid rent for the months of October – February inclusive as well as the \$50.00 filing fee paid to bring this application for a total entitlement of \$2,800.00. I order that the landlord retain the \$250.00 security deposit and the \$8.73 in interest which has accrued to the date of this judgment in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,541.27. 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 \$2,541.27. The landlord will retain the security deposit and accrued interest.

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: March 01, 2012

Residential Tenancy Branch