



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, 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, to keep all or part of the security deposit, 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 by registered mail. 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

This tenancy began August 1, 2011 with monthly rent of \$950.00 and the tenant paid a security deposit of \$475.00.

On January 5, 2012 the landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenant has not paid the rent since August 2011 and has repeatedly told the landlord that he would vacate but has not. The landlord stated that in January 2012 she was contacted by the office of mental health and asked to allow the tenant to stay until the end of January which the landlord agreed to.

The tenant has told the landlord he would vacate the end of January, then the end of February and now not until the end of March and the tenant has made no effort to pay any of the rent owed to the landlord.

As the tenant remains in the rental unit the landlord is seeking an order of possession effective 2 days after service upon the tenant. The landlord is also seeking a monetary order in the amount of \$5700.00 for August, September, October, November 2011 and January, February 2012 unpaid rent.

Analysis

Based on the documentary evidence and testimony of the parties I find that the tenant was properly served with a notice to end tenancy for non-payment of 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 on the above facts I find that the landlord is entitled to an order of possession and a monetary order for unpaid rent.

Accordingly I find that the landlord is entitled to a monetary order for \$5700.00.

As the landlord has been successful in their application the landlord is entitled to recovery of the \$100.00 filing fee.

Conclusion

I hereby grant the landlord an **Order of Possession**, effective **2 days** after service of the Order upon the tenant(s). This Order must be served on the tenant(s) and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim for \$5700.00 in unpaid rent. The landlord is also entitled to recovery of the \$100.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep the tenant's \$475.00 security deposit in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$5325.00**.

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: March 8, 2012

Residential Tenancy Branch