

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This is an application filed by the Landlord for an order of possession and a monetary order request for unpaid rent, to keep all or part of the security deposit and 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 package in person on April 12, 2012 and has submitted a copy of a statement from a witness, D.R. as proof of service. No evidence has been submitted by the Tenant. As such, I am satisfied that the Tenant was properly served with the notice of hearing and evidence package from the Landlord.

At the beginning of the hearing the Landlord withdrew his monetary application as he states that the Tenant has completed late payment of the April 2012 rent and utility arrears and has reimbursed the Landlord for his application fee. As such, I find that no further action is required regarding the Landlord's monetary claim.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The Landlord states that the Tenant has failed to pay rent on time and has issued the Tenant a 10 day notice to end tenancy for unpaid rent. The notice dated April 4, 2012 was personally served by the Landlord and has submitted a proof of service document with the Tenant's signature acknowledging receipt of the document. The notice shows an effective date of April 14, 2012.

The Landlord states after receiving a late rent payment of \$360.00 on April 4, 2012 and again on April 14, 2012, issued a receipt for both for "use and occupancy only". It also lists an amount owing of \$153.50 outstanding. The Landlord states that as of the date of the hearing that all monetary issues have been resolved.

The Landlord seeks an order of possession.

Analysis

I accept the undisputed testimony of the Landlord and find based upon the above facts, that the Tenant was served with a 10 day notice to end tenancy for unpaid rent and utilities dated April 4, 2012 as shown by the Landlord's proof of service document. The Tenant did not pay the outstanding amount within the allowed 5 days nor did she apply for dispute to dispute the notice. The Landlord issued a receipt for the partial rent payments for "use and occupancy only". I am satisfied that the Tenant is aware that the Landlord in doing so gave her notice that the Tenancy was at an end and would not be reinstated after receiving the partial payments. The Landlord is granted an order of possession. The Tenant must be served with the order. 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.

I decline to make an order regarding the disposition of the \$440.00 security deposit. Both parties are subject to following the Residential Tenancy Act in the final disposition of the security deposit.

Conclusion

The Landlord is granted an order of possession.

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: April 27, 2012.

Residential Tenancy Branch