

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, to keep all or part of the security deposit and recovery of the filing fee.

The Landlord's Agent attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend. The Landlord states that the notice of hearing and evidence package was served on the Tenant by Canada Post Registered Mail on April 20, 2012. The Landlord has included in their evidence a copy of the Canada Post Registered Mail Customer Receipt. At the time of the hearing, the Landlord stated that an online check with Canada Post states that notices were left and that the Tenant has not yet picked up the package and that it would be returned to the sender. The Landlord states that the Tenant is still in possession of the rental unit at the time of the hearing. I am satisfied that the Tenant was properly served with the notice of hearing and evidence package by Canada Post Registered Mail on April 20, 2012 and that the Tenant is deemed under the Act to have received the package on April 25, 2012.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security deposit?

Background and Evidence

The Landlord states that the Tenant was served with a 10 day notice to end tenancy dated April 3, 2012 in person on the same date. The Landlord has submitted a copy of a proof of service document which states that the Landlord personally served the Tenant with the document. The notice shows an effective date of April 13, 2012 and that the monthly rent in the amount of \$1,400.00 that was due on April 1, 2012 was not paid. The Landlord states that as of the date of the hearing, the Tenant has failed to pay rent of \$1,400.00 for April and May of 2012.

The Landlord seeks an order of possession for unpaid rent, a monetary order for \$2,800.00 consisting of unpaid rent of \$1,400.00 and lost rental income for May 2012 of \$1,400.00. The Landlord has also applied to retain the security deposit of \$700.00 which was paid on January 1, 2008 to offset the monetary claim.

Analysis

I accept the undisputed testimony of the Landlord's Agent and find that the Tenant was served with a 10 day notice to end tenancy for unpaid rent dated April 3, 2012 in person on the same date. 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 on April 13, 2012. 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. 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 \$2,800.00 consisting of \$1,400.00 in unpaid rent and \$1,400.00 in lost rental income. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$700.00 security deposit and \$10.50 in interest which has accrued to the date of this judgement in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$2,139.50. 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 \$2,139.50. The Landlord may retain the security deposit and accrued interest of \$710.50.

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: May 08, 2012.

Residential Tenancy Branch