

DECISION

Dispute Codes OPR, MNR, FF

Introduction

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

The Landlord's Agent attended the hearing by conference call and gave undisputed testimony. The Tenants did not attend. The Tenants did not submit any documentary evidence. The Landlord states that the Tenants were served with the notice of hearing and evidence package in person on May 31, 2012. The Landlord has submitted a proof of service document with one of the Tenant's signatures as acknowledgment in receiving the notice. As such, I am satisfied that both parties have been properly served with the notice of hearing and evidence packages that were submitted as deemed under the Act.

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 seeks an order of possession and a monetary order for \$766.66 for unpaid rent.

This Tenancy began on March 4, 2011 on a month to month basis as shown in the submitted copy of the signed tenancy agreement. The monthly rent is \$1,150.00 payable on the 1st of each month.

The Landlord states that the Tenant was served with a 10 day notice to end tenancy for unpaid rent dated May 2, 2012 in person on the same date. The notice states that outstanding rent of \$383.33 is outstanding from the rent that was due on May 1, 2012. The stated effective date of the notice is May 15, 2012. The Landlord states that a ministry cheque pays the \$766.67 that makes up the \$1,150.00 monthly rent. The Landlord states that the Tenants have not filed for dispute nor have they paid the outstanding arrears. The Landlord states that this unpaid rent amount was repeated

again in June making the arrears total, \$766.66 consisting of \$383.33 X 2. The Landlord states that the Tenants are still in possession of the rental unit.

Analysis

I accept the Landlord's undisputed testimony and I find that the Tenants were served with the notice to end tenancy for unpaid rent. The Tenants did pay the outstanding rent within 5 days of receiving the notice and did not apply for disputes resolution to dispute the notice and is therefore conclusively presume to have accepted that the Tenancy is at an 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 request, I find that the Landlord has established a claim for unpaid rent totalling, \$766.66. The Landlord is also entitled to recovery of the \$50.00 filing fee. I grant the Landlord a monetary order under section 67 for \$816.66. 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 \$816.66.

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: June 19, 2012.

Residential Tenancy Branch