

DECISION

Dispute Codes ET, OPR, MNR, FF

Introduction

This is an application filed by the Landlord for an early end to the tenancy, an order of possession and monetary order for unpaid rent and the recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend. The Tenant did not submit any documentary evidence. The Landlord states that the Tenant was served with the notice of hearing and evidence package by Canada Post Registered Mail on July 26, 2012 after receiving the package on July 23, 2012. The Landlord has submitted in support of the proof of service, the Canada Post Customer Receipt. As such, I find that both parties have been properly served as deemed under the Act.

The Landlord's application for an early end to the tenancy (ET) is dismissed as the Landlord has failed to provide any details pursuant to section 56 of the Residential Tenancy Act. As such, this portion of the application is dismissed.

At the end of the hearing, the Landlord stated that the address provided for service on the application was an error and that she resides at with her sister at a difference address. The Landlord's application is amended to show the proper service address.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Background, Evidence and Analysis

This Tenancy began on September 1, 2011 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$1,500.00 payable on the 1st of each month. A security deposit of \$750.00 and a pet damage deposit of \$300.00 were paid.

The Landlord states in her direct testimony that the Tenant was served with a 10 day notice to end tenancy dated July 3, 2012 on the same date by posting it on the rental

unit door. The Landlord states that this notice was for \$1,400.00 in unpaid rent that was due on July 1, 2012. The stated effective date of the notice was July 13, 2012. The Landlord states that the Tenant has not vacated the rental unit, nor has he made any rental payments as of the date of this hearing. The Landlord seeks an order of possession and a monetary order for \$1,400.00. The Landlord clarified in her direct testimony that the Tenant paid \$1,600.00 on July 1, 2012 for June (\$1,500.00) and July (\$1,500.00) rent in cash, but did not provide a receipt.

I accept the undisputed testimony of the Landlord and find that the Tenant was served with the 10 day notice to end tenancy for unpaid rent on July 3, 2012. This corrects the effective date of the notice to July 16, 2012 as per the Act. The Tenant did not pay the outstanding rent due 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 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 claim, I find based upon the undisputed testimony of the Landlord that the claim for \$1,400.00 in unpaid rent has been established. The Landlord is also entitled to recovery of the \$50.00 filing fee. I decline to make any order regarding the security deposit even though the Landlord has stated in her direct testimony that it was part of her application. I find that there is no mention/selection of the security deposit anywhere in the Landlord's application, details of dispute or evidence. The Landlord is granted a monetary order for \$1,450.00. 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 \$1,450.00.

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: August 20, 2012.

Residential Tenancy Branch