



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, OPR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Despite having been personally served with the application for dispute resolution and notice of hearing on July 20, the tenant did not participate in the conference call hearing.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Background and Evidence

The landlord's undisputed evidence is as follows. The tenancy began on or about December 1, 2006. Rent in the amount of \$1,048.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$445.00. The tenant failed to pay rent in the month of July and on July 3, the landlord personally served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month of August. The landlord seeks an order of possession based on the notice to end tenancy, unpaid rent for the month of July, loss of income for the month of August, late payment fees pursuant to the terms of the tenancy agreement and recovery of the \$50.00 filing fee paid to bring his application.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant did not pay rent for the month of July and on July 3 was 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. 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, I find that the landlord is entitled to recover \$1,048.00 in unpaid rent for the month of July and \$1,048.00 in loss of income for the month of August. I further find that the landlord is entitled to recover \$25.00 as a late payment fee for the month of July. As the tenant did not dispute the notice to end tenancy and the tenancy therefore ended pursuant to the notice, I find that the landlord cannot collect a late payment fee for the month of August as the only entitlement the landlord has for that month is lost income. I also award the landlord the \$50.00 filing fee paid to bring this application for a total entitlement of \$2,171.00. I order that the landlord retain the \$445.00 security deposit and the \$13.81 in interest which has accrued to the date of this judgment in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,712.19. 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 \$1,712.19. The landlord will retain the security deposit.

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 09, 2012

Residential Tenancy Branch