



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 served with the application for dispute resolution and notice of hearing by registered mail on August 24 and with the amended application for dispute resolution by registered mail on September 14, the tenants 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 testimony is as follows. The tenancy began on or about October 1, 2011 at which time the tenants paid a \$412.50 security deposit. Rent in the amount of \$825.00 is payable in advance on the first day of each month. The tenants failed to pay rent in the month of August and on August 4, 2012 the landlord served the tenant with a notice to end tenancy by posting the notice to the door of the rental unit. On September 5, the tenants made a payment of \$875.00 representing unpaid rent, a late payment fee and an NSF fee pursuant to the terms of the tenancy agreement. The payment was accepted for use and occupancy only. On September 13, the landlord amended her application to request \$800.00 in unpaid rent for September and the \$50.00 filing fee paid to bring her application as well as the order of possession and security deposit as claimed in the original application.

Analysis

I accept the landlord's undisputed testimony and I find that the tenants did not pay rent on the date that it was due in the month of August and that they received the notice to end tenancy for non-payment of rent on August 7, 3 days after it was posted on their door. The tenants 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 are 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 the unpaid rent for the month of September as well as the \$50.00 filing fee paid to bring this application. I note that at the hearing the landlord also asked to recover a late payment fee for September, but as that did not form part of the application served on the tenant, I am unable to make that award. I order that the landlord retain the \$412.50 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$437.50. 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 \$437.50. 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: September 24, 2012

Residential Tenancy Branch