

DECISION

Dispute Codes OPR, OPB, MNR, MNSD, FF

Introduction

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent or utilities, an order of possession for a breach of an agreement, to keep all or part of the security deposit and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend and 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 September 11, 2012. The Landlord has provided in his direct testimony the Canada Post Tracking No. RW391450706CA as confirmation. The Landlord states that the notice of hearing and evidence package was returned by Canada Post as undelivered after leaving notices for the Tenant at the rental address. I accept the undisputed testimony of the Landlord and find that the Tenant was properly served as deemed under the Act.

The Landlord clarified at the beginning of the hearing that the OPB selected on the application was in error and is withdrawing it. As such, no further action for this portion of the application is required.

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 keep all or part of the security deposit?

Background, Evidence and Analysis

This Tenancy began on January 1, 1998 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The current monthly rent is \$1,200.00 payable on the last day of the previous month. A security deposit of \$550.00 was paid on December 28, 1997.

The Landlord states that a 10 day notice to end tenancy for unpaid rent dated July 15, 2012 and served on the Tenant by posting it on the rental unit door on the same date. The Landlord has submitted a copy of a proof of service document which confirms this with a witness present. The notice states that rent of \$1,900.00 was due on the 1st day of July 2012 and was unpaid. The stated effective date of the notice is July 25, 2012. The Landlord clarified that the Tenant is still in possession of the rental and has made partial rent payment of \$1,500.00. The Landlord stated that the Tenant was currently in arrears (not including October) of \$1,600.00.

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 15, 2012 by posting it to the rental unit door. The Tenant did not pay the rent within the allowed 5 days nor did he apply for dispute resolution to dispute the notice. The Tenant is presumed to have accepted that the Tenancy is at an end. 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 a claim for \$1,600.00 in unpaid rent has been established. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$550.00 security deposit and the \$56.78 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 \$1,043.22. 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 \$1,043.62. The Landlord may retain the \$550.00 security deposit and the accrued interest of \$56.78.

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: October 12, 2012.

Residential Tenancy Branch