



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 September 22, the tenant did not participate in the conference call hearing.

At the hearing the landlord asked to amend her claim to include a claim for loss of income for the month of October. I find that the tenant should reasonably have known that the landlord could not re-rent the unit while he was still residing therein and I therefore allow the amendment.

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 tenancy began on or about February 1, 2008. Rent in the amount of \$781.00 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 \$350.00. The tenant failed to pay \$314.00 of his rent in the month of July 2012 and paid no rent whatsoever in the months of August and September. On September 4 the landlord served the tenant with a notice to end tenancy by posting the notice to the door of the rental unit. The tenant further failed to pay rent in the month of October.

The landlord gave evidence that the tenant was obligated to pay a \$25.00 late payment fee pursuant to the terms of the tenancy agreement and seeks to recover late payment fees for August and September as well unpaid rent and loss of income.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant did not pay the full amount of rent due for the months of July, August and September and on September 4 was served with a notice to end tenancy for non-payment of rent. The tenant is deemed

to have received the notice 3 days later on September 7. 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 \$314.00 in unpaid rent for the month of July, \$781.00 in unpaid rent for each of the months of August and September, \$781.00 in loss of income for the month of October, \$25.00 in late payment fees for each of the months of August and September as well as the \$50.00 filing fee paid to bring this application for a total award of \$2,757.00. I order that the landlord retain the \$350.00 security deposit and the \$4.81 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 \$2,402.19. 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 \$2,402.19. The landlord may 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: October 24, 2012

Residential Tenancy Branch