

DECISION

Dispute Codes OPR, 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, 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. The Landlord states that the Tenant was served with the notice of hearing and evidence package by Canada Post Registered Mail on October 16, 2012. The Landlord has submitted a copy of the Customer Receipt as confirmation. The Landlord's application was amended on November 9, 2012 to increase the monetary claim to \$3,085.00. The Landlord states that the amended application was sent to the Tenant on November 9, 2012 by posting it to the rental unit door. I accept the undisputed testimony of the Landlord and find that the Tenant was properly served with the notice of hearing and evidence package submitted.

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 retain the security deposit?

Background, Evidence and Analysis

This Tenancy began on April 1, 2012 on a fixed term tenancy ending on March 31, 2013 and then thereafter on a month to month basis. The monthly rent is \$960.00 payable on the 1st of each month. A security deposit of \$480.00 was paid.

The Landlord states that the Tenant was served with a 10 day notice to end tenancy issued for unpaid rent on September 7, 2012 by posting it to the rental unit door. The notice states that rent of \$1,045.00 was due on September 1, 2012 and unpaid when served with the notice. The effective date of the notice is September 17, 2012.

The Landlord states that they are seeking based upon the amended application a total monetary claim of \$3,085.00. This consists of unpaid rent of \$960.00 for September

2012, \$35.00 monthly parking fee for September 2012, \$25.00 NSF fee for the returned cheque for September 2012 and a \$25.00 late fee for August 2012 based upon the 10 day notice to end tenancy issued for unpaid rent dated September 7, 2012. The Landlord states that the Tenant still occupies the rental unit and has failed to make any payments for October and November of \$960.00 for unpaid rent and \$35.00 for the parking fees for both months.

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 September 7, 2012 by posting it on the rental unit door. 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 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 order, I find that the Landlord has established a claim for \$3,085.00. This consists of unpaid rent of \$2,880.00 for 3 months, a late fee of \$25.00, a NSF fee of \$25.00 and \$105.00 for parking fees for 3 months. The Landlord's evidence states that the Tenant has failed to pay the rent as per the 10 day notice dated September 7, 2012 and any subsequent rent for October and November. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$480.00 security deposit in partial satisfaction of the claim and I grant to the Landlord a monetary order under section 67 for the balance due of \$2,605.00.

Conclusion

The Landlord is granted an order of possession and a monetary order for \$2,605.00. 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: November 19, 2012.

Residential Tenancy Branch