

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF, CNR

Introduction

There are applications filed by both parties. The Landlord has made an application for an order of possession and a monetary order for unpaid rent or utilities, for money owed or compensation for damage or loss, to keep all or part of the security deposit and recovery of the filing fee. The Tenant has made an application to cancel the notice to end tenancy issued for unpaid rent or utilities and recovery of the filing fee.

The Landlord has attended the hearing by conference call and has given undisputed testimony. The Tenant has not attended or submitted 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 October 26, 2012. The Landlord has provided in his direct testimony the Canada Post Customer Receipt Tracking number as confirmation that the package was sent and a notice left for the Tenant by Canada Post to claim, but was unclaimed and returned to the Landlord. I am satisfied based upon the undisputed testimony of the Landlord that the Tenant was properly served with the notice of hearing and evidence package. The Landlord confirms that he received the Tenant's notice of hearing package for his application. As the Tenant has failed to attend to forward his application and the Landlord is in attendance in response, I dismiss the Tenant's application without leave to reapply.

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 June 1, 2012 on a fixed term tenancy ending on May 31, 2012 as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$1,590.00 payable on the 1st of each month and a \$795.00 security deposit was paid.

The Landlord states that the Tenant was served with a 10 day notice to end tenancy dated October 20, 2012 in person on the same date. The Landlord has submitted signed a proof of service document as confirmation. The notice states that \$1,590.00 in rent was due on October 1, 2012 and was unpaid as of the date of the notice. The effective date of the notice is October 30, 2012.

The Landlord states that as of the date of this hearing that rent from the notice and the subsequent months remain unpaid and that he has not had any contact with the Tenant since being served with the Tenant's application for dispute resolution.

The Landlord seeks an order of possession and a monetary order for unpaid rent for October 2012 of \$1,590.00, November 2012 of \$1,590.00, an NSF charge of \$7.00, a strata move-in fee of \$200.00, an additional strata move-in fee of \$25.20 for a total of \$3,412.20. The Landlord also seeks a monetary claim of \$1,590.00 for December 2012 rent.

I find based upon the undisputed evidence of the Landlord that a claim has been established that the Tenant was served with a 10 day notice to end tenancy issued for unpaid rent. Although the Tenant did apply for dispute resolution, he has failed to attend in response to the Landlord's claim or to proceed on his application to cancel the notice. Based upon the above, the Landlord has established a claim for an order of possession. The Landlord is granted 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 that the Landlord has established a claim for unpaid rent of \$3,412.20 for October and November rent, the NSF charge and the strata move-in fees. I find that the Landlord's request for December rent to be pre-mature and dismiss this portion of the application with leave to reapply. The Landlord is entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$795.00 security deposit in partial satisfaction of the claim and I grant the Landlord a monetary order under section 67 for the balance due of \$2,667.20. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Tenant's application is dismissed without leave to reapply.
The Landlord is granted an order of possession and a monetary order for \$2,667.20.
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 30, 2012.

Residential Tenancy Branch