



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, 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 January 2, 2012, 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 rent for the month of January. I find that the tenant should reasonably have known that the landlord could not re-rent the unit while she was still living therein and I 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 landlord's undisputed testimony is as follows. The tenancy began on or about April 1, 2012 at which time the tenant paid a \$2,000.00 security deposit. Rent in the amount of \$4,000.00 is payable in advance on the first day of each month. In the months of September, November and December, the tenant's rent cheques were returned by the bank for insufficient funds. The tenant further failed to pay rent in the month of January.

The landlord testified that on December 24, 2012, the tenant was personally served with a 10 day notice to end to end tenancy for unpaid rent (the "Notice").

Analysis

I accept the landlord's undisputed testimony and I find that the tenant did not pay rent for the months of September, November and December 2012 and on * was served with the Notice. 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 the unpaid rent for the months of September, November and December as well as loss of income for January and the \$100.00 filing fee paid to bring this application for a total award of \$16,100.00. I order that the landlord retain the \$2,000.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$14,100.00. 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 \$14,100.00. 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: January 28, 2013

Residential Tenancy Branch

