



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

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. The landlord participated in the conference call hearing but the tenant(s) did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing by having a witness present when posting the notice on the door on January 26, 2013. I found that the tenants had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence. The landlord gave affirmed evidence.

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 July 1, 2012. Rent in the amount of \$400.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month(s) of January and on January 26, 2013 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of February.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. 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.

Since the landlord served the notice of hearing documents by posting on the door; section 89 of the Act stipulates that is acceptable service in terms of the order for possession but not for a monetary order. I dismiss the landlords claim for a monetary order with leave to reapply when service in accordance with the Act can be carried out.

Conclusion

The landlord is granted an order of possession and has leave to reapply for the monetary portion of his claim.

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: February 20, 2013

Residential Tenancy Branch

