



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 personally served with the application for dispute resolution and notice of hearing on February 17, the tenant did not participate in the conference call hearing.

Issues(s) 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 evidence is as follows. The tenancy began on or about May 1, 2015. Rent in the amount of \$500.00 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 \$450.00. The tenant failed to pay rent in the months of December, January and February and on February 10 the landlord personally served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month of March.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant was obligated to pay \$500.00 in rent in advance on the first day of each month. I find that the tenant did not pay rent for the months of December – February inclusive and on February 10 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.

As for the monetary order, I find that the landlord is entitled to recover the unpaid rent for the months of December, January and February. As the tenant is still residing in the rental unit, the landlord is unable to re-rent the unit and therefore has lost income as a result of the tenant's failure to comply with the notice to end tenancy. I find that the landlord is also entitled to recover lost income for the month of March. As the landlord has been substantially successful in his claim, I find he should recover the \$50.00 filing fee paid to bring this application. The total award to the landlord is \$2,050.00. I order that the landlord retain the \$250.00 deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,800.00. 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 \$1,800.00. 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: March 11, 2015

Residential Tenancy Branch

