



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, 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 letter on November 13, 2015, the tenant did not participate in the conference call hearing. I note that the tenant did not claim the registered letter at the post office despite having been provided with notification cards. The tenant cannot avoid service by refusing to collect mail delivered to him. I found that the tenant had been properly served with notice of the hearing and of the claim against him and the hearing proceeded in his absence.

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 evidence is as follows. The tenancy began on July 1, 2015. Rent in the amount of \$1,700.00 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 \$850.00. The tenant failed to pay rent in the months of September and October and on October 26, 2015 the landlord served the tenant with a notice to end tenancy by sending the document to him via registered mail. The tenant refused the letter at the post office and it was returned to the landlord. The tenant further failed to pay rent in the months of November, December and January but the landlord is not pursuing the rent for those months at this time.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant was obligated to pay \$1,700.00 in rent in advance on the first day of each month. I find that the tenant did not pay rent for the months of October and November 2015 and on October 26, 2015 was served with a notice to end tenancy for non-payment of rent. The tenant cannot avoid service of a document by refusing that document at the post office. I find that the tenant is deemed to have received the notice to end tenancy 5 days after it was mailed. 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 and October as well as the \$50.00 filing fee paid to bring this application for a total entitlement of \$3,450.00. I order that the landlord retain the \$850.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,600.00. 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 \$2,600.00. 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 11, 2016

Residential Tenancy Branch

