



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent.

The landlord and the tenant participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Background and Evidence

The tenancy began several years ago. Rent in the amount of \$800.00 is payable in advance on the first day of each month. On September 6, 2016 the landlord served the tenant with a notice to end tenancy for non-payment of rent.

Landlord's Evidence

The landlord stated that the tenant failed to pay \$100.00 of the rent for August 2016, and then he paid no rent for September 2016. The landlord stated that on September 9, 2016 the tenant asked the landlord's office manager for a receipt for the rent that he left

in cash in the office. The landlord stated that there was no envelope with cash left in the office. The landlord stated that the tenant gave the landlord a cheque for \$100.00 for the outstanding August 2016 rent, but the cheque was post-dated to September 23, 2016. The landlord stated that the tenant gave him three post-dated cheques for October through December 2016, but the landlord did not cash them.

Tenant's Response

The tenant stated that he put \$400.00 cash in an envelope and left it in the office. The tenant stated that another occupant, who has been living in the office, stated that he would pay the balance of \$400.00 to the landlord. The tenant stated that he believes the other occupant stole the cash. The tenant pointed out that he did give the landlord post-dated cheques for October through December 2016, but he also acknowledged that those funds are no longer available.

Analysis

I have reviewed all evidence and I find that the tenant did not pay rent in full within five days after having been served with the notice to end tenancy for unpaid rent. The landlord is therefore entitled to an order of possession.

As for the monetary claim, I find that the tenant has failed to provide sufficient evidence to show that he paid \$400.00 toward September 2016 rent. There is no dispute that the tenant was responsible for paying the full \$800.00 rent to the landlord. If the tenant had an agreement with another person who offered to pay \$400.00 of the rent, then it was the tenant's responsibility to ensure that the landlord received those funds. If the other person stole the tenant's \$400.00 payment, this is not the fault of the landlord. Rather it is a matter between the tenant and the other person. The landlord is entitled to \$800.00 for September 2016 rent.

Further, the tenant has acknowledged that he does not have the funds to cover the rent cheques for October and November 2016, and I find that the landlord is entitled to recovery of the lost revenue for those months.

It is not clear whether the landlord cashed the cheque for \$100.00, and I therefore add it to the monetary award. If the landlord has cashed the cheque, then he must deduct \$100.00 from the monetary order.

As the landlord's application was successful, he is entitled to recovery of the \$100.00 filing fee for the cost of this application.

Conclusion

The landlord's application is successful.

I grant the landlord an order of possession effective two days from service. 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.

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 Court and enforced as an order of that Court.

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 16, 2016

Residential Tenancy Branch