

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This is an application filed by the Landlord for an order of possession resulting from a 10 day notice to end tenancy for unpaid rent, a monetary order request for unpaid rent and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony.

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 Landlord states that the Tenant was served with the notice of hearing documents on July 5, 2011 in person at the rental unit. The Landlord had the witness, S.W. (the Landlord's spouse) witness the service at 5:05pm at the rental unit.

The Landlord states that this Tenancy began on August 21, 2010 with the Tenant, D.P. on a fixed term tenancy until August 31, 2011 as shown in the submitted signed tenancy agreement. The Landlord allowed an assignment to sublet by the Tenant beginning May 1, 2011 for the current Tenant named, V.P. The Landlord collected the May 1, 2011 rent of \$800.00 in cash from the Tenant, V.P. A security deposit of \$400.00 is held by the Landlord.

The Landlord states that the Tenant failed to pay the rent due on June 1, 2011 and was served a 10 day notice to end tenancy for unpaid rent on June 22, 2011 by posting it on the door of the rental unit. The Landlord has provided a proof of service document that the Landlord's notice was served by posting it on the rental unit door on June 22, 2011 and witnessed by a friend, R.W. The Landlord states that rent for June and July remain unpaid as of the date of this hearing. The Landlord states that he is not aware of the Tenant filing any application for dispute for this notice. The Tenant is still currently in possession of the rental unit. The Landlord is seeking an order of possession and a monetary order request for unpaid rent of \$1,600.00.

Analysis

I accept the Landlord's undisputed testimony and submitted evidence that the Tenant was properly served with the notice of hearing and evidence packages in person on July 5, 2011.

Based upon the undisputed evidence of the Landlord, I find that the Tenant was properly served with the 10 day notice to end tenancy for unpaid rent by posting it on the rental unit door on June 22, 2011. The Tenant has failed to pay the rent or file an application for dispute within the allowed timeframe. The Tenant is conclusively presumed to accept that the Tenancy is at an end on the effective date of the notice. 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 am satisfied that the Landlord has established a claim for unpaid rent of \$1,600.00. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$400.00 security deposit in partial satisfaction of the claim and I grant an order under section 67 for the balance due of \$1,250.00. 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 \$1,250.00. The Landlord may 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: July 27, 2011.

Residential Tenancy Branch