

## **DECISION**

Dispute Codes      MT, CNR, OPR, MNR, FF

### Introduction

There are applications filed by both parties. The Tenant has applied to allow for more time to make an application to cancel a notice to end tenancy for unpaid rent. The Landlord has applied for an order of possession resulting from a 10 day notice to end tenancy for unpaid rent and utilities and a monetary order request for unpaid rent and utilities and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony.

### Issue(s) to be Decided

Is the Tenant allowed more time to make an application to cancel a notice to end tenancy?

Is the Tenant entitled to an order cancelling the notice to end tenancy?

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order for unpaid rent and utilities?

### Background and Evidence

Both parties agreed that no signed tenancy agreement exists.

Both parties have confirmed the evidence filed by the other party and have referred in detail to them during the hearing.

The Landlord states that the Tenant was served with the 10 day notice to end tenancy on July 19, 2011 in person. The Tenant has confirmed this.

The Landlord has made a claim for \$710.28 consisting of unpaid rent for September 2010 of \$200.00, unpaid rent for October 2010 of \$100.00, unpaid rent for November 2010 of \$50.00 and utilities totalling \$135.28. The Tenant disputes this stating that all rent was paid in cash, but that Landlord failed to provide receipts. The Tenant has not provided any evidence of payment. The Landlord has supplied two receipts for the months of October and November 2010 showing that partial rent was paid in both months with an outstanding balance. The Landlord has supplied no evidence of a written demand for the utilities. In the Landlord's direct testimony, he stated that no written demand was made. The Landlord also claims that the \$225.00 security deposit was never paid. The Tenant disputes this stating that the deposit was forgiven in lieu of

house cleaning. The Landlord disputes this. The Tenant has not provided any evidence.

### Analysis

I find based upon the evidence of both parties that the Tenant has failed to provide evidence of any reason to allow for more time to make an application for dispute outside of the allowed time frame of 5 days or make payment of the rent. The notice was served on July 19, 2011 and confirmed as received by the Tenant for that date. The Tenant's application for more time is dismissed. As such, the Tenant is conclusively presumed to accept that the Tenancy is at an end on the effective date. 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 based upon the submitted evidence and on a balance of probabilities that the Landlord has established a claim for unpaid rent of \$150.00 consisting of \$100.00 for October 2010 and \$50.00 for November 2010. The Landlord has failed to provide any evidence of outstanding rent for September 2010 and has failed to provide any evidence to support his claim of unpaid utilities of \$135.28 as no written demand was made of the Tenant. As for the security deposit, I decline to make an order for the Tenant to pay the \$225.00 amount as the Tenancy is at an end. The Landlord is also entitled to recovery of the \$50.00 filing fee. I grant the Landlord an order under section 67 for the balance due of \$200.00 (consisting of \$150.00 of unpaid rent and \$50.00 for the filing fee).

### Conclusion

The Tenant's application for more time to make an application to cancel a notice to end tenancy is dismissed. The Tenant's application to cancel the notice to end tenancy is dismissed.

The Landlord is granted an order of possession and a monetary order for \$200.00.

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: August 26, 2011.

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Residential Tenancy Branch