



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Dispute Codes: MNR, OPR

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent. The landlord participated in the hearing and gave affirmed testimony. Despite being served with the application for dispute resolution and the notice of hearing, the tenant did not participate in the hearing.

Issues to be Decided

- Whether the landlord is entitled to an order of possession
- Whether the landlord is entitled to a monetary order under the *Act*

Background and Evidence

Pursuant to a written agreement, the month-to-month tenancy began around October 1, 2007. Tenancy began in a unit located in the basement of a house but later the rental unit was located upstairs in the house. At the outset, rent of \$750.00 was payable in advance on the first day of each month. By way of verbal & mutual agreement between the parties, effective September 1, 2008 rent was increased to \$900.00 per month. The rent increase coincided with the move into the unit by the original renter's partner and his daughter. No security deposit was required to be paid in this tenancy.

The tenant paid only half of the rent for September 2008 in the amount of \$450.00. The landlord then issued a 10 day notice to end tenancy for unpaid rent, however, a copy of this notice was not submitted into evidence. The tenant further failed to pay rent in the months of October, November and December 2008. The landlord submitted into

evidence a copy of the second 10 day notice to end tenancy dated November 2, 2008 which was served in person to the tenant's boyfriend / co-tenant.

The application for dispute resolution and notice of hearing were posted on the front door of the unit by the landlord's partner on November 19, 2008. The landlord's partner did not participate in the hearing, however, I find on a balance of probabilities that the package was served.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord, I find the tenant was served with a 10 day notice to end tenancy for unpaid rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the *Act* 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.

As for the monetary order, I find the landlord has established a claim for \$3,150.00 comprised of unpaid rent for September (\$450.00), October (\$900.00), November (\$900.00) and December (\$900.00). The landlord did not apply for recovery of the filing fee. I grant the landlord a monetary order under section 67 of the *Act* for \$3,150.00.

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service upon the tenant. This order must be served on the tenant. 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 hereby grant the landlord a monetary order under section 67 of the *Act* for **\$3,150.00**. This order must be served on the tenant and may be filed in the Small Claims Court and enforced as an order of that Court.

DATE: December 1, 2008

Dispute Resolution Officer

