



Dispute Resolution Services

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

Decision

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for an order of possession, a monetary order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim, and recovery of the filing fee for this application. The landlord's agent participated in the hearing and gave affirmed testimony. Despite being served by registered mail with the application for dispute resolution and the notice of hearing, none of the tenants attended 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 residential tenancy agreement the term of tenancy was from September 1, 2008 to August 31, 2009. Rent in the amount of \$4,000.00 was payable in advance on the first day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$2,000.00. The tenants failed to pay rent for the month of December and the landlord's agent served the tenants with a notice to end tenancy.

The landlord's agent submitted into evidence a copy of the 10 day notice to end tenancy dated December 5, 2008 which was served by deposit through the unit's mail slot on that same day.

On or about December 18, 2008 the tenants vacated the unit and provided no forwarding address.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent. The tenants did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenants are 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 \$4,000.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the security deposit of \$2,000.00 and interest of \$10.00 in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 of the *Act* for the balance due of \$2,040.00 (\$4,050.00 – \$2010.00).

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service upon the tenants. This order must be served on the tenants. Should the tenants 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 \$2,040.00. This order must be served on the tenants and may be filed in the Small Claims Court and enforced as an order of that Court.

DATE: December 31, 2008

Dispute Resolution Officer

