



Dispute Resolution Services

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

Decision

Dispute Codes: OPR, MNR, MNDC, FF

Introduction

This hearing dealt with the landlord's application for an order of possession, a monetary order for unpaid rent and compensation for late payment of rent, and recovery of the filing fee for this application. The landlord participated in the hearing and gave affirmed testimony. Despite being served by way of registered mail with the application for dispute resolution and notice of hearing, the tenants did not attend.

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 December 30, 2005. Subsequently, the landlord purchased the property in October 2006. Currently, rent in the amount of \$258.83 is payable in advance on the first day of each month. The landlord (applicant) has not collected a security deposit and there is no evidence that a security deposit was paid to the previous landlord.

By letter dated September 22, 2008, the landlord notified the tenant that September's rent was overdue. Following this, by letter dated October 24, 2008, the landlord notified the tenant that rent for September and October were now overdue. Then by "final warning letter" dated November 14, 2008 the landlord notified the tenant that rent for September, October and November 2008 were overdue. Thereafter, the tenant failed to

pay rent for the month of December 2008, and the landlord served the tenant with a 10 day notice to end tenancy for unpaid rent. The tenant further failed to pay rent for the month of January 2009.

The landlord submitted into evidence a copy of the 10 day notice dated December 3, 2008 which was served by posting on the tenant's door that same day.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord, I find that 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 39(5) of the *Act* to have accepted that the tenancy ended on the effective date of the notice which was December 15, 2008. I find, therefore, that the landlord is entitled to an order of possession.

As for the monetary order, I find the landlord has established a claim for \$1,419.15. This is comprised of \$1,294.15 for five months of unpaid rent (5 x \$258.83), and \$125.00 for five fees assessed for late payment of rent (5 x \$25.00), as provided for in the written agreement. The landlord is also entitled to recovery of the \$50.00 filing fee for this application (total claim: \$1,469.15). Accordingly, I grant the landlord a monetary order under section 60 of the *Act* for \$1,469.15.

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. 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 60 of the *Act* for **\$1,469.15**.

This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: January 19, 2009

Dispute Resolution Officer