



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, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee for this application. The landlord's agent attended the hearing and gave affirmed testimony on her behalf. Despite being served by way of registered mail with the application for dispute resolution and notice of hearing, the tenant did not appear.

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

The landlord's agent stated that, pursuant to information set out on the landlord's 10 day notice to end tenancy for unpaid rent and utilities, the tenant failed to pay rent and utilities which were due on December 1, 2008 in the total amount of \$2,325.00. The landlord submitted into evidence a copy of the notice which is dated December 3, 2008 and which was personally served on the tenant that same day. The tenant further failed to pay rent for the month of January 2009 and the landlord's agent stated that the tenant abandoned the unit sometime during the first week of January 2009.

In the absence of a copy of the written residential tenancy agreement, the landlord's agent was unable to supply relevant details such as when tenancy began, the agreed upon term of tenancy, the amount of monthly rent and when it was due, the agreement

concerning payment of utilities, as well as the amount of any security and / or pet deposit which may have been paid and on what date.

Further, the landlord's agent stated that as the condition of the unit is not presently known, the quantum of a monetary order sought for an amount in excess of unpaid rent is presently unknown. In the meantime, notwithstanding the tenant's apparent recent disappearance, the landlord's agent seeks an order of possession.

Analysis

Based on the documentary evidence and testimony of the landlord's agent, 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 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the notice which was December 13, 2008. I therefore find that the landlord is entitled to an order of possession. I dismiss the landlord's application for recovery of the filing fee.

As for a monetary order, in the absence of details set out in the tenancy agreement, as well as a calculation with supporting evidence of full compensation sought, I dismiss this aspect of the landlord's application with leave to reapply.

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 dismiss the landlord's application for a monetary order with leave to reapply.

DATE: January 23, 2009

Dispute Resolution Officer