



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, compensation for loss of rental income, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee. The landlord's agent 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 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

Pursuant to a written residential tenancy agreement, the fixed term of tenancy was from January 1, 2007 to December 31, 2007. Thereafter, tenancy has continued on a month-to-month basis. In addition to a monthly parking fee of \$30.00, rent of \$933.30 is currently payable in advance on the first day of each month. A security deposit of \$450.00 was paid by the tenant on December 29, 2006.

The tenant was late in his payment of rent due on November 1, 2008, and failed to pay any rent due on December 1, 2008. Accordingly, the landlord served the tenant with a 10 day notice to end tenancy for unpaid rent.

The landlord submitted into evidence a copy of the 10 day notice dated December 4, 2008, which was served by posting on the tenant's door that same day. It is understood that the tenant vacated the unit towards the end of December 2008.

Analysis

Based on the documentary evidence and undisputed 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 17, 2008. I find the landlord is therefore entitled to an order of possession.

As for the monetary order, I find the landlord has established a claim for \$2,027.30. This is comprised of \$25.00 (late fee for November 2008 rent), \$.70 (outstanding fee for November 2008 parking), \$933.30 (December 2008 rent), \$25.00 (late fee for December 2008 rent), \$30.00 (December 2008 parking), \$933.30 (January 2009 rent), \$30.00 (January 2009 parking), and recovery of the \$50.00 filing fee for this application. I order that the landlord retain the security deposit of \$450.00 plus interest of \$13.62, and I grant the landlord a monetary order under section 67 of the *Act* for the balance due of \$1,563.68 (\$2,027.30 - \$463.62).

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 **\$1,563.68**.

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

DATE: January 28, 2009

Dispute Resolution Officer