

Decision

Dispute Codes:

MNR OPR FF

Introduction

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

This Dispute Resolution Hearing was convened to deal with an Application by the Landlord for an Order of Possession based on the Ten-Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 5, 2008, a monetary order for rent and utilities owed and to recover the filing fee for the cost of this application.

Issue(s) to be Decided

The Landlord sought an Order of Possession based on the Ten-Day Notice to End Tenancy for Unpaid Rent and Utilities and was also seeking a monetary order for rent and utility arrears, plus reimbursement for the \$50.00 filing fee.

The issues to be determined based on the testimony and the evidence are:

- Whether the Landlord is entitled to an Order of Possession under section 55 of the Act, based on the Ten-Day Notice to End Tenancy ; and
- Whether the Landlord has proven that he is entitled to monetary compensation under section 67 for rental arrears or utilities owed.

Background and Evidence

The Landlord submitted no evidence other than a copy of the Ten-Day Notice to End Tenancy dated December 5, 2008. The Landlord testified that he served the Notice to End Tenancy upon the Tenant, in person, on the date of issue.

The Landlord testified that he served the Tenant personally with the Application for Dispute Resolution on December 12, 2008.

Although served with the Application for Dispute Resolution and Notice of Hearing, the Tenant did not appear.

The landlord testified that:

- the tenancy started on October 1, 2008;
- rent was \$680.00 per month and that the tenant paid a security deposit of \$340.00 on October 1, 2008;
- part of the tenancy agreement was that the Tenant pay 1/3 of the heat and light utilities, which totaled \$90.00 per month;
- the Tenant owes arrears in rent for the month of December in the amount of \$280.00, and has not paid January's rent of \$680.00 for a total in rent arrears of \$960.00.
- the Tenant failed to pay her share of utilities for the month of December, 2008 in the amount of \$90.00.

Analysis

With respect to the Landlord's claim for unpaid utilities, I note that a copy of the demand for payment was not in evidence. Furthermore, there is no copy of a receipt on file, indicating the amount billed for December's utilities. Therefore, I dismiss this part of the Landlord's claim.

I find that the Tenant was served on December 5, 2008, with the Notice to End Tenancy dated December 5, 2008. The effective date for the end of the tenancy was December 15, 2008. The Tenant did not apply to dispute the Notice and is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. I therefore find that the Landlord is entitled to an Order of Possession.

I find that the Landlord has established a total monetary claim of \$1,010.00, comprised of \$960.00 in rent arrears and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the security deposit and interest of \$341.28 in partial satisfaction of the claim leaving a balance due to the Landlord of \$668.72.

Conclusion

Under section 55 of the Act, and based on the above facts I find that the Landlord is entitled to an Order of Possession and I hereby issue the order effective two days from service of the order. This order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Based on the testimony and evidence presented during these proceedings, I grant the Landlord a monetary order under section 67 of the *Act* for \$668.72. This order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

January 6, 2009
