

Decision

Dispute Codes:

OPR MNR MNSD MNDC 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 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 2, 2008, for a monetary order for unpaid rent and damage or loss under the Act, and to recover the filing fee for the cost of this application.

The evidence on the case file was reviewed prior to the Hearing. The Landlord gave affirmed testimony at the Hearing and this Application proceeded on its merits.

Issue(s) to be Decided

The Landlord sought an Order of Possession pursuant to Section 55 of the Act based on the Notice to End Tenancy, a monetary order under Section 67 of the Act, and reimbursement for the \$50.00 filing fee pursuant to Section 72(1) of the Act.

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

- Whether the Landlord is entitled to an Order of Possession based on the 10 Day Notice to End Tenancy;
- Whether the Landlord is entitled to a monetary order for unpaid rent or damages.

Background and Evidence

The Landlord testified that she served the Tenant with the Notice to End Tenancy dated December 2, 2008 by posting it on the Tenant's door on December 2, 2008. She testified that she served the Tenant with the Application for Dispute Resolution filed on December 12, 2008, on December 16, 2008, by personal service. The Tenant did not appear at the Hearing, although she was duly served.

The Landlord testified that the Tenant had given her notice to vacate the unit on December 31, 2008, but did not vacate the rental unit until January 2, 2009. The Landlord has not re-rented the rental unit because the Tenant left behind some personal belongings, including a couch, love seat and entertainment unit. The Landlord has had no contact with the Tenant since she moved out and is in the process of dealing with the Tenant's abandoned property. The Landlord does not anticipate any difficulty renting the suite to a new tenant for February 1, 2009.

The Tenant has vacated the rental unit, and therefore the Landlord withdrew her application for an Order of Possession.

The Landlord stated that the Tenant has not paid December's rent. The Landlord testified that there is a \$25.00 fee for late payment of rent, which is included in paragraph 12 of the tenancy agreement. The Tenant placed her initials beside paragraph 12, and signed the tenancy agreement.

The Landlord testified that the Tenant paid a security deposit on September 21, 2007, in the amount of \$325.00. The monthly rent is \$650.00 and is due on the first of each month.

Analysis

The Tenant did not pay rent for the month of December, 2008. The Tenant did not vacate the rental unit until January 2, 2009, and left behind furniture in the suite. The Tenant has had no contact with the Landlord since vacating the suite and left no

forwarding address. The Landlord is endeavouring to deal with the Tenant's personal effects in accordance with Part 5 of the *Residential Tenancy Regulations*. Therefore the Landlord is entitled to a monetary order for \$650.00 for December's rent and damages in the amount of \$650.00 for the loss of January's rent.

The Landlord is entitled to the \$25.00 late fee for the month of December, 2008, because the Tenant did not pay December's rent on time. I dismiss the Landlord's application for the late fee for January, 2009, as the tenancy ended on December 15, 2008.

The Landlord was successful in today's application and is therefore entitled to recover his filing fee in the amount of \$50.00.

I find that the Landlord has established a total monetary claim of \$1325.00 comprised of rental arrears in the amount of \$650.00 for December's rent, \$650.00 for loss of January's rent, \$25.00 for late fees for December's rent, and the \$50.00 fee paid by the Landlord for this application. Pursuant to Section 72(2)(b) of the Act, I order that the Landlord retain the security deposit of \$312.50 plus interest of \$6.02, for a total of \$318.52 in partial satisfaction of the claim, leaving a balance due of \$1,006.48.

Conclusion

I grant the Landlord a monetary order under section 67 of the *Act* for \$1,006.48. 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 15, 2009
