

Decision

Dispute Codes:

MNSD

MNDC

OPC

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 One Month Notice to End Tenancy for Cause dated November 20, 2008, a monetary order for compensation for loss of January, 2009 rent 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 Notice to End Tenancy for Cause and was also seeking a monetary order for compensation for loss of January, 2009 rent, 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 One Month Notice to End Tenancy ; and
- Whether the Landlord has proven that he is entitled to monetary compensation under section 67 for January, 2009 rental.

Background and Evidence

The Parties agreed on the following facts:

- The Tenancy started on January 1, 1999.
- The monthly rent is \$740.00. Rent is due on the first of every month.
- The Tenant paid a security deposit in the amount of \$325.00 on February 11, 1999.
- The Landlord served the Tenant personally with the Notice to End Tenancy dated November 20, 2008 on November 20, 2008.
- The Tenant is still occupying the rental unit.

Analysis

The Tenant was served with the One Month Notice to End Tenancy on November 20, 2008, and did not dispute the Notice within 10 days of receipt of the Notice. Therefore, pursuant to Section 55(2)(b) of the Act, I find that the Landlord is entitled to an Order of Possession.

Section 55 states, in part:

“(2) A Landlord may request an order of possession of a rental unit in any of the following circumstances, by making an application for dispute resolution:

(b) a notice to end tenancy has been given by the Landlord, the Tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired;”

This is a One Month Notice to End Tenancy and therefore under Section 47(2) of the Act, the Tenancy is deemed to have ended on December 31, 2008.

Section 47(2) states:

“A notice under this section must end the tenancy effective on the date that is:

(a) not earlier than one month after the date the notice is received, and

(b) the day before the day in the month, or in the other period on which the tenancy is based, that the rent is payable under the tenancy agreement.”

The Landlord has been successful and therefore is entitled to be reimbursed for the filing fee in the amount of \$50.00.

I find that the Landlord has established a total monetary claim of \$790.00 for loss of revenue for the month of January, 2009, in the amount of \$740.00, together with 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 \$325.00 plus interest of \$35.61, for a total of \$360.61 in partial satisfaction of the claim leaving a balance due of \$429.39.

Conclusion

Under section 55 of the Act, and based on the above facts, the Landlord is entitled to an Order of Possession and I hereby issue the order. The Tenant will have two days from the date of service of the order to vacate the premises. This order 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 \$429.39. 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 12, 2009
