



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes:

OPR MNR

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.

I reviewed the evidence on the case file prior to the Hearing. The Landlord gave affirmed evidence at the hearing.

This is the Landlord’s application for an Order of Possession for Unpaid Rent or Utilities and a monetary order for unpaid rent.

Issue(s) to be Decided

- (1) Was the Tenant duly served with the Landlord’s application and hearing package?
- (2) Is the Landlord entitled to an Order of Possession and monetary order for unpaid rent?

Preliminary Matter

This hearing was scheduled via teleconference at 1:00 p.m., February 9, 2009. The Landlord gave affirmed testimony that he personally served the Tenant with his application, filed January 7, 2009 and amended on January 23, 2009. Service of the Landlord’s amended application occurred on January 23, 2009 at 5:00 p.m., by personal service to the Tenant at the Tenant’s residence. The Landlord testified that he, himself

served the Tenant and that such service included the Notice of Hearing package and copies of the Landlord's evidence. I accept the Landlord's testimony with respect to service. At 1:10 p.m., the Tenant had not signed in to the teleconference and the hearing proceeded in the Tenant's absence.

Background and Evidence

The Landlord testified he served the Tenant with the Notice to End Tenancy dated December 9, 2008, by way of personal service on December 9, 2008 at the rental unit. The Landlord testified that the Tenant has not paid rent for the months of November and December, 2008 and for the months of January and February, 2009. The Landlord did not apply for loss of rent for the month of February, 2009.

Monthly rent for the rental unit is \$550.00. The Landlord testified that he attended at the rental unit on February 8, 2009. The Landlord testified that the Tenant was not present at the rental unit, but there were two occupants there. The Landlord testified that the occupants would not say where the Tenant was or when he would be back. The Landlord does not know if the Tenant is still living in the rental unit. The Landlord asked for an order of possession and for a monetary order against the Tenant in the amount of \$1,650.00 representing the rental arrears for the months of November, December and January.

Analysis

Based on the testimony of the Landlord, I find that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent. The Tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on December 19, 2008, which is 10 days after the Tenant was served with the Notice. Based on the above facts I find that the Landlord is entitled to an Order of Possession

I find that the Landlord has established a total monetary claim of \$1,650.00 comprised of unpaid rent for November and December, 2008 and loss of rent for the month of January, 2009.

Conclusion

I hereby issue an Order of Possession in favour of the Landlord effective two days after service on the Tenant. 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.

I hereby grant the Landlord a monetary order under section 67 for \$1,650.00. This order must be served on the Tenant and may be filed in the British Columbia Provincial Court (Small Claims) and enforced as an order of that Court.

February 9, 2009
