



Dispute Resolution Services

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

Decision

Dispute Codes: OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application from the landlords 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 landlords participated in the hearing and gave affirmed testimony. Despite being served in person with the application for dispute resolution and notice of hearing on January 9, 2009, the tenant did not appear.

Issues to be Decided

- Whether the landlords are entitled to an order of possession
- Whether the landlords are entitled to a monetary order under the *Act*

Background and Evidence

Pursuant to a written residential tenancy agreement, the month-to-month tenancy began on January 5, 2008. Rent in the amount of \$550.00 is payable in advance on the first day of each month and a security deposit of \$275.00 was collected on January 5, 2008.

The tenant failed to pay all rent due for the months of December 2008 and January 2009. Accordingly, the landlords served the tenant with a 10 day notice to end tenancy for unpaid rent. The tenant further failed to pay rent for the month of February 2009.

The landlords submitted into evidence a copy of the 10 day notice dated January 4, 2009 which was served in person on the tenant that same day.

Analysis

Based on the documentary evidence and undisputed testimony of the landlords, I find that the tenant was served with the application for dispute resolution and the notice of hearing, as well as 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 is January 14, 2009. Accordingly, the landlords are entitled to an order of possession.

As for the monetary order, I find the landlords have established a claim for \$1,300.00 which is comprised of unpaid rent for December 2008 (\$150.00), unpaid rent for January 2009 (\$550.00), unpaid rent and loss of rental income for February 2009 (\$550.00), and the \$50.00 filing fee for this application. I order that the landlords retain the security deposit of \$275.00 plus interest of \$4.08, and I grant the landlords a monetary order under section 67 of the *Act* for the balance due of \$1,020.92 (\$1,300.00 - \$279.08).

Conclusion

I hereby issue an order of possession in favour of the landlords 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 landlords a monetary order under section 67 of the *Act* for **\$1,020.92**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: February 9, 2009

Dispute Resolution Officer