



Dispute Resolution Services

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

Decision

Dispute Codes: CNR

Introduction

This hearing dealt with the tenant's application for cancellation of a 10 day notice to end tenancy for unpaid rent. The landlord's agent attended the conference call hearing and gave affirmed testimony. The tenant called into the conference call at the scheduled start time of 11:00 a.m., however, he promptly withdrew from the hearing without any participation and had not called in again by 11:20 a.m. when the hearing was concluded. In the absence of any testimony from the tenant, the landlord's agent made an oral request for an order of possession and a monetary order.

Issues to be Decided

- Whether the landlord is entitled to an order of possession
- Whether the landlord is entitled to a monetary order under the Act

Background and Evidence

Pursuant to a written residential tenancy agreement, the six month term of tenancy began July 15, 2008. Rent of \$1,100.00 was due and payable on the first day of the month and a security deposit of \$550.00 was collected on or about July 15, 2008.

The tenant failed to pay rent due on January 1, 2009. Accordingly, the landlord served the tenant with a 10 day notice to end tenancy for unpaid rent. The tenant further failed to pay rent due on February 1, 2009, and the understanding of the landlord's agent is that the tenant has now vacated the unit.

Analysis

Based on the affirmed and undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated January 5, 2009. The tenant did not pay the outstanding rent within 5 days of receiving the notice. Further, the tenant did not apply for dispute resolution to dispute the notice within 5 days of having been served with the notice. As well, the tenant failed to participate in the teleconference hearing which was scheduled in response to his application for dispute resolution, albeit a late application. In view of all of the above, 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 was January 15, 2009. Accordingly, I find that the landlord is entitled to an order of possession.

As for a monetary order, pursuant to section 58 of the *Act* the landlord may file a separate application for dispute resolution setting out the details of any compensation sought as a result of this tenancy.

Conclusion

I hereby issue an order of possession in favour of the landlord effective no later than **two (2) days** after service upon 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.

DATE: February 18, 2009

Dispute Resolution Officer