



Dispute Resolution Services

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

Decision

Dispute Codes: OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application for an order of possession, a monetary order for unpaid rent, and recovery of the filing fee for this application. The landlord's agent participated in the hearing and gave affirmed testimony. Despite being served by way of registered mail with the application for dispute resolution and notice of hearing, the tenant did not attend.

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

It is understood that the tenant moved into the unit sometime in August 2008. Pursuant to a verbal agreement between the tenant and the landlord, who is also a relative of the tenant, rent in the amount of \$400.00 became payable in advance on the first day of each month commencing in October 2008. No security deposit was collected. The tenant made payment towards rent for October 2008 in the amount of \$200.00.

Following this, the landlord issued a 1 month notice to end tenancy for cause dated October 18, 2008, and a 10 day notice to end tenancy for unpaid rent dated December 8, 2008. Subsequently, the tenant has paid no additional rent.

The landlord submitted into evidence copies of the two notices, as above, which in each case were delivered in person to the tenant.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find that the tenant was served with both, a 1 month notice to end tenancy for cause and a 10 day notice to end tenancy for unpaid rent. The reason for issuance of the 1 month notice is shown on the notice as follows:

Tenant is repeatedly late paying rent

As it appears this notice was issued after only one instance of late payment of rent, I set this notice aside.

In regard to the 10 day notice, the tenant did not pay the outstanding rent within 5 days of receiving it 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 was incorrectly shown as December 8, 2008 and should read December 18, 2008. I therefore find that the landlord is entitled to an order of possession.

As for the monetary order, I find the landlord has established a claim for \$2,250.00. This is comprised of the balance of unpaid rent for October 2008 of \$200.00, and the full amount of unpaid rent of \$400.00 for each of the successive five (5) months from November 2008 to March 2009 (inclusive) in the total amount of \$2,200.00, in addition to the \$50.00 filing fee for this application. I therefore grant the landlord a monetary order under section 67 of the *Act* for \$2,250.00.

Conclusion

I hereby issue an order of possession in favour of the landlord 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 landlord a monetary order under section 67 of the *Act* for **\$2,250.00**. Should the tenant fail to pay this amount to the landlord, this order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: March 6, 2009

Dispute Resolution Officer