



Dispute Resolution Services

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

Decision

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for an order of possession, a monetary order for unpaid rent, retention of the security deposit in partial satisfaction of the claim, 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, neither tenant attended the hearing.

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 month-to-month tenancy began on January 21, 2008. Rent in the amount of \$750.00 is payable in advance on the first day of each month, and a security deposit of \$375.00 was collected at the start of tenancy.

The tenants failed to pay the full rent due for the month of December 2008; specifically, payment was short in the amount of \$350.00. Subsequently, the tenants failed to pay any rent for January 2009. Accordingly, the landlord served the tenants with a 10 day notice to end tenancy for unpaid rent. The tenants further failed to pay rent for the months of February or March 2009.

The landlord submitted into evidence a copy of the 10 day notice dated January 6, 2009 which was served by posting on the tenants' door that same day.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent. The tenants did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenants are 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 16, 2009. 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 \$2,650.00. This amount is comprised of unpaid rent of \$350.00 for December 2008, unpaid rent of \$2,250.00 for January, February and March 2009 (3 x \$750.00), and the \$50.00 filing fee for this application. I order that the landlord retain the security deposit of \$375.00 plus interest of \$5.32, and I grant the landlord a monetary order under section 67 of the *Act* for the balance due of \$2,269.68 (\$2,650.00 - \$380.32).

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service upon the tenants. This order must be served on the tenants. Should the tenants 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 **\$2,269.68**. This order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: March 5, 2009

Dispute Resolution Officer