



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. 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

Pursuant to a written residential tenancy agreement, the term of tenancy is from April 1, 2008 to March 31, 2009. Rent in the amount of \$1,050.00 is payable in advance on the first day of each month, in addition to a monthly parking fee of \$40.00. On April 9, 2008 a security deposit of \$525.00 was collected.

As a result of his cheque for which there were Not Sufficient Funds ("NSF") the tenant failed to pay rent for the month of January 2009. Accordingly, the landlord served the tenant with a 10 day notice to end tenancy for unpaid rent. Subsequently, while the tenant paid January's rent and the monthly parking fee on February 3, 2009, the tenant has paid no rent for February or March 2009.

The landlord submitted into evidence a copy of the 10 day notice dated January 12, 2009 which was served by posting on the tenant's door that same day.

Analysis

Based on the documentary evidence 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. 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 was January 22, 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 \$2,325.00. This is comprised of \$20.00 for the NSF fee for January rent, \$25.00 for the late payment of rent fee for January, \$1,050.00 for unpaid rent for February, \$40.00 for unpaid parking for February, \$25.00 for the late payment of rent for February, \$1,050.00 for unpaid rent for March, \$40.00 for unpaid parking for March, \$25.00 for the late payment of rent for March, and the landlord's recovery of the \$50.00 filing fee for this application. I order that the landlord retain the security deposit of \$525.00 plus interest of \$5.74 and I grant the landlord a monetary order under section 67 of the *Act* for the balance due of \$1,794.26 (\$2,325.00 - \$530.74).

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 **\$1,794.26**. 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