Dispute Resolution Services

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

Decision

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

Introduction

This hearing dealt with an application from the landlord for an order of possession, a monetary order in compensation for unpaid rent, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee for this application. Both parties 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 appear.

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 April 1, 2008. Rent in the amount of $500.00 was payable in advance on the first day of each month, and a security deposit of $250.00 was collected at the start of tenancy. A move-in condition inspection report was completed on March 29, 2008.

The tenant failed to pay rent for the month of January 2009. Accordingly, the landlord issued a 10 day notice to end tenancy for unpaid rent. Subsequently, the tenant failed to pay rent for February 2009.

The landlord submitted into evidence a copy of the 10 day notice dated January 15, 2009 which was posted on the tenant's door that same day.

Analysis

Based on the documentary evidence and testimony of the parties, 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 26, 2009.   Accordingly, I find that the landlord is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim of $XXXX. This is comprised of unpaid rent of $XXXX for January 2009, costs of $XXXX to repair blah, blah, blah, and recovery of the $50.00 filing fee for this application. I order that the landlord retain the security deposit of $XXXX plus interest of $XXXX, and I grant the landlord a monetary order under section 67 of the Act for the balance due of $XXXX.

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 $XXXX. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: March 9, 2009   _____

                                                                              Dispute Resolution Officer