



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 an application from the landlord for an order of possession, a monetary order in compensation for unpaid rent, fees for late payment of rent, retention of the security & pet deposits 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 in person on February 18, 2009 by the landlord's agent with the application for dispute resolution and notice of hearing, neither tenant appeared.

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 July 1, 2008 to June 30, 2009. Rent in the amount of \$850.00 is payable in advance on the first day of each month. A security deposit of \$425.00 was collected on June 13, 2008 and a pet deposit of \$200.00 was collected on June 29, 2008.

The tenants failed to pay rent for the month of February 2009 on the due date. Accordingly, the landlord issued a 10 day notice to end tenancy for unpaid rent. Subsequently, the tenants paid the overdue rent on February 24, 2009 and made late payment of rent for March 2009. As at the time of this hearing, the tenants have failed to pay rent for April 2009.

The landlord submitted into evidence a copy of the 10 day notice dated February 2, 2009 which was posted on the tenant's door on that same date.

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 February 12, 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 \$960.00. This is comprised of unpaid rent of \$850.00 for April 2009, a fee for late payment of rent in each of the three months of February, March and April 2009 in the total amount of \$60.00 (3 x \$20.00), and recovery of the \$50.00 filing fee for this application. I order that the landlord retain the security deposit of \$425.00 plus interest of \$3.52, as well as the pet deposit of \$200.00 plus interest of \$1.52, and I grant the landlord a monetary order under section 67 of the Act for the balance due of \$329.96 (\$960.00 - \$630.04).

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 **\$329.96**. This order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: April 3, 2009

Dispute Resolution Officer