



Dispute Resolution Services

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

Decision

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

Introduction

This hearing dealt with the landlord's application for an order of possession, a monetary order as compensation for unpaid rent, fees for late payment of 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, 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 this tenancy is from March 1, 2009 to March 1, 2010. Rent in the amount of \$1,000.00 is due and payable on the first day of the month. A security deposit in the total amount of \$500.00 was collected as follows: \$200.00 on February 4, 2009 & \$300.00 on February 6, 2009.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated May 2, 2009. Subsequently, the tenants did not pay any rent for May or June. A copy of the notice was submitted in evidence and the landlord's agent testified that it was delivered to the tenants' mailbox as well as slipped beneath their door on May 2, 2009. The tenants presently continue to reside in the unit.

Analysis

Based on the documentary evidence and the 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 would be May 15, 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 \$2,100.00. This is comprised of \$1,000.00 in rent for May, \$1,000.00 in rent for June, a total of \$50.00 in fees for late payment of rent (\$25.00 x 2), and recovery of the \$50.00 filing fee. I order that the landlord retain the security deposit of \$500.00 and I grant the landlord a monetary order for the balance owing of \$1,600.00 (\$2,100.00 - \$500.00).

Conclusion

Pursuant to all of the above, 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.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$1,600.00**. Should it be necessary, this order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: June 18, 2009

Dispute Resolution Officer