



Dispute Resolution Services

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

Decision

Dispute Codes: OPR, CNR, MNR, MNDC, MNSD, OLC, ERP, RP, PSF, FF

Introduction

This hearing dealt with two applications: 1) from the landlord for an order of possession, a monetary order as compensation for unpaid rent / loss of rental income, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee; 2) from the tenant for cancellation of the notice to end tenancy, a monetary order for the cost of emergency repairs, compensation for damage or loss under the Act, orders instructing the landlord to comply with the Act, make repairs to the unit (some of them emergency), provide services or facilities required by law, and recovery of the filing fee. The landlord and his 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 appear.

Issues to be decided

- Whether the landlord is entitled to an order of possession and a monetary order under the Act
- Whether the tenant is entitled to any / and / or all of the above

Background and Evidence

The month-to-month tenancy in this unit began on January 15, 2009. Rent in the amount of \$2,100.00 is payable on the first day of the month, and a security deposit of \$900.00 was collected at the start of tenancy.

In relation to unpaid rent for April & May 2009, the landlord issued a 10 day notice to end tenancy for unpaid rent dated May 8, 2009. The notice was served by posting on

the tenant's door on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenant paid no rent for the month of April, May or June 2009.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord and his agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated May 8, 2009. The tenant did not pay the outstanding rent within 5 days of receiving the notice. The tenant applied to dispute the notice, however, he failed to attend the hearing. 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. 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 \$6,350.00. This is comprised of \$2,100.00 x 3 for unpaid rent in each of April, May & June 2009, and recovery of the \$50.00 filing fee. I order that the landlord retain the security deposit of \$900.00 and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$5,450.00 (\$6,350.00 - \$900.00).

Conclusion

Pursuant to 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 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.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$5,450.00**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

The tenant's application is hereby dismissed.

DATE: June 30, 2009

Dispute Resolution Officer