



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 as compensation 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 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 original term of tenancy was from July 1, 2005 to June 30, 2006. Thereafter, tenancy has continued on a month-to-month basis. Rent in the amount of \$992.40 is due and payable on the first day of the month, and a security deposit of \$430.00 was collected on July 1, 2005.

In relation to unpaid rent for May 2009, the landlord issued a 10 day notice to end tenancy dated May 10, 2009. The notice was posted 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 May or June 2009.

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 dated May 10, 2009. 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. 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 \$2,033.00. This is comprised of \$990.60 for unpaid rent in May (credit of \$1.80 reflected for April), \$992.40 for unpaid rent in June, and the \$50.00 filing fee for this application. I order that the landlord retain the security deposit of \$430.00 plus interest of \$15.24, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$1,587.76 (\$2,033.00 - \$445.24).

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 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 **\$1,587.76**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: June 30, 2009

Dispute Resolution Officer