



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 / loss of rental income, 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 12 month fixed term tenancy began on November 1, 2008. Rent in the amount of \$800.00 and parking in the amount of \$30.00 are payable in combination on the first day of the month. A security deposit of \$400.00 was collected on October 27, 2008.

No rent or parking was paid on April 1, 2009. No rent or parking was paid on May 1, 2009. On May 4, 2009 the tenants paid \$830.00, which the landlord applied against overdue rent and parking for April 2009.

As a result of overdue rent for May 2009, the landlord issued a 10 day notice to end tenancy for unpaid rent dated May 12, 2009. The notice was posted on the tenants' door on that same date, and a copy of the notice was submitted into evidence.

Subsequently, no rent or parking was paid on June 1, 2009. However, on June 2, 2009 the tenants paid \$830.00 which the landlord applied against overdue rent and parking for May 2009.

No rent or parking was paid on July 1, 2009. On July 6, 2009, however, the tenants paid \$830.00, which the landlord applied against overdue rent and parking for June. Currently, therefore, the tenants are in arrears with rent and parking for July 2009.

The landlord has not applied for a monetary order as compensation for fees arising from late payments of rent.

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 dated May 12, 2009. The tenants did not pay the outstanding rent for that month 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. 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 \$880.00. This is comprised of \$830.00 in unpaid rent and parking for July 2009, in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$400.00 plus interest of \$1.08, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$478.92 (\$880.00 - \$401.08).

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 **\$478.92**. 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: July 20, 2009

Dispute Resolution Officer