



Dispute Resolution Services

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

Decision

Dispute Codes: OPC, MND, MNR, FF

Introduction

This hearing dealt with the landlord's application for an order of possession, a monetary order for damage to the unit, a monetary order for unpaid rent, and recovery of the filing fee for this application. The landlord participated in the hearing and gave affirmed testimony.

The landlord served the tenant in person on July 8, 2009 with the application for dispute resolution and notice of hearing. As the parties had difficulty calling into the conference call hearing scheduled for August 20, 2009, the hearing was re-scheduled to commence at 11:30 a.m. on August 31, 2009. Despite mailing of the notice of re-scheduled hearing to the tenant at the dispute address, 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

There is no written residential tenancy agreement in place for this month-to-month tenancy which the landlord claims began 4 or 5 years ago. Rent in the amount of \$720.00 is payable each month; by way of verbal agreement between the parties ½ the rent is due on the first day of the month, and the other ½ of the rent is due at mid month. The landlord currently holds no security deposit or pet damage deposit.

The landlord issued a 1 month notice to end tenancy for cause dated May 16, 2009. The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence. Reasons shown on the notice for its issuance are as follows:

Tenant is repeatedly late paying rent

Tenant has not done required repairs of damage to the unit.

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after [written notice to do so*] **manually crossed out on the notice***

As for damage to the unit, in his application the landlord states:

....damage to the weather stripping on the front door

....the tenant's girlfriend painted the kitchen cabinets (indoor / outdoor paint)

....remove and haul away broken dryer from the laundry room – it's been there at least 1 ½ years.

The landlord submitted no photos or receipts for any costs he may have incurred in relation to the above damage.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord, I find that the tenant was served with a 1 month notice to end tenancy for cause dated May 16, 2009. The tenant did not file to dispute the notice within 10 days after his receipt of the notice. The tenant is therefore conclusively presumed under section 47(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 \$1,490.00. This is comprised of \$720.00 in unpaid rent for July, \$720.00 in unpaid rent for August, and the \$50.00 filing fee. I therefore grant the landlord a monetary order under section 67 of the Act for \$1,490.00.

In the absence of documentary evidence in support of his application for a monetary order for damage to the unit, I dismiss that aspect of the landlord's application with leave to reapply. Following the end of tenancy, the landlord has the option of re-applying for a monetary order for damage to the unit and any additional unpaid rent.

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 **\$1,490.00**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: August 31, 2009

Dispute Resolution Officer