

Decision

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

Introduction

This hearing dealt with the landlord's application for an order of possession, a monetary order as compensation for unpaid rent, compensation for damage or loss under the Act / regulation / tenancy agreement, retention of the security deposit, 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, and despite a verbal expression to the landlord of her intent to attend the hearing, the tenant did not appear.

Issues to be decided

- Whether the landlord is entitled to any or all of the above under the Act

Background and Evidence

Pursuant to a written residential tenancy agreement, the fixed term of tenancy is from August 1, 2009 to January 31, 2010. Thereafter, tenancy was to continue on a month-to-month basis. Rent in the amount of \$1,100.00 is payable in advance on the first day of each month, and a security deposit of \$550.00 was collected on July 28, 2009.

The tenant's payment of rent for September 2009 was late. Arising from rent that was unpaid when due on October 1, 2009, the landlord issued a 10 day notice to end tenancy for unpaid rent dated October 5, 2009. The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence.

Subsequently, the tenant has made no further payment towards rent.

Further, a \$200.00 fine was imposed on the tenant for breach of a strata bylaw by causing a noise disturbance. The tenant has not paid the fine or taken an opportunity to respond to the complaint within 14 days of having been informed of the matter by letter from the landlord dated August 21, 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 October 5, 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 \$2,525.00. This is comprised of \$2,200.00 in total unpaid rent (October & November: 2 x \$1,100.00), \$75.00 in total penalties arising from late payment of rent (September / October / November: 3 x \$25.00), \$200.00 for breach of the strata bylaw, and recovery of the \$50.00 filing fee. I order that the landlord retain the security deposit of \$550.00 and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$1,975.00 (\$2,525.00 - \$550.00).

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 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 **\$1,975.00**. Should it be necessary, this order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: November 26, 2009

Dispute Resolution Officer