

Decision

Dispute Codes: OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application for an order of possession, a monetary order as compensation for unpaid rent, and recovery of the filing fee. The landlord 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 tenancy agreement, the month-to-month tenancy began in 2003. Currently, rent in the amount of \$250.00 is payable on the first day of the month.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated October 6, 2009. The notice was served in person on the tenants on that same date. A copy of the notice was submitted into evidence. The amount shown as overdue on the notice is \$1,300.00. Subsequently, the tenants made 2 payments in the combined total amount of \$750.00 (\$250.00 + \$500.00). Rent that presently remains overdue is in the total amount of \$800.00, as follows: August \$50.00; September: \$250.00; October: \$250.00; November: \$250.00.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated October 6, 2009. The tenants did not pay the entire amount of overdue rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenants are therefore conclusively presumed under section 39(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. The landlord requested that an order of possession be effective not later than 1:00 p.m., December 31, 2009.

As for the monetary order, I find that the landlord has established a claim of \$850.00. This is comprised of \$800.00 in overdue rent as set out above, in addition to the \$50.00 filing fee. Accordingly, I hereby grant the landlord a monetary order under section 60 of the Act for \$850.00.

Conclusion

Pursuant to all of the above, I hereby issue an order of possession in favour of the landlord effective not later than 1:00 p.m., December 31, 2009. 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 60 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$850.00**. 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: November 19, 2009

Dispute Resolution Officer