

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, and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

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 month-to-month tenancy began on August 15, 2006. Currently, rent in the amount of \$775.00 is payable in advance on the first day of each month. A security deposit of \$375.00 was collected on August 15, 2006.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated October 14, 2009, a copy of which was submitted into evidence. Presently, the landlord testified that the total amount of rent outstanding is \$2,475.00. The tenant does not dispute that rent is in arrears, but claimed to be uncertain about the exact amount. Uncertainty about the amount appears to be the result of confusion arising from various post-dated cheques (some of which may have been cashed, some of which have not yet been cashed,) NSF cheques and cheques for which a "stop payment" had previously been issued.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated October 14, 2009. The tenants did not pay the entire amount of outstanding rent 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 \$2,525.00. This is comprised of \$2,475.00 in unpaid rent, in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$375.00 plus interest of \$12.08, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$2,137.92 (\$2,525.00 - \$387.08).

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 **\$2,137.92**. 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: November 24, 2009

Dispute Resolution Officer