

Decision

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

Introduction

This hearing dealt with an application from the landlord for an order of possession, a monetary order as compensation for unpaid rent, compensation for damage or loss under the Act / regulation / residential tenancy agreement, retention of the security deposit, in addition to recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony. Despite being served in person on October 21, 2009 with the application for dispute resolution and notice of 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 was from December 1, 2004 to November 30, 2005. Thereafter, tenancy has continued on a month-to-month basis. Rent in the amount of \$1,010.00 is payable in advance on the first day of each month, and a security deposit of \$447.50 was collected on November 29, 2004.

Arising from rent which remained unpaid when due on October 1, 2009, the landlord issued a 10 day notice to end tenancy for unpaid rent dated October 7, 2009. The notice was served by posting on the tenant's door on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenant made no further payment towards rent, and his October rent cheque was NSF.

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 7, 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 \$3,180.00. This is comprised of \$3,030.00 in unpaid rent for 3 months (October, November, December - 3 x \$1,010.00), \$60.00 in total fees for late payment of rent (3 x \$20.00), \$25.00 for the October NSF fee, \$15.00 in total for locker rental (3 x \$5.00), in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$447.50 plus interest of \$15.84, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$2,716.66 (\$3,180.00 - \$463.34).

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 **\$2,716.66**. 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: December 3, 2009

Dispute Resolution Officer