

DECISION

Dispute Codes: OPR, MNR and FF

Introduction

This application was brought by the landlord seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by posting on November 26, 2009. The landlord also sought a Monetary Order for unpaid rent and recovery of the filing fee for this proceeding.

At the commencement of the hearing, the landlord stated that the tenant had vacated the rental unit during the last week of December 2009 and he withdrew the request for an Order of Possession.

This matter was originally dealt with as a Direct Request proceeding on written submission only, but was adjourned to the present participatory hearing due to the extraordinarily large monetary claim for unpaid rent.

Despite having been served with the Notice of Direct Proceeding sent by registered mail on December 13, 2009 and notice of the present hearing in person, the tenant has not made application to dispute and did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to a Monetary Order for unpaid rent and recovery of the filing fee for this proceeding.

Background and Evidence

This tenancy began on November 3, 2008 and ended in the last week of December 2009. Rent is \$1,400 per month according to the rental agreement signed by both parties on October 18, 2008. Though the agreement states that a \$700 security deposit was due on November 1, 2008, the landlord gave evidence that it was never paid.

During the hearing, the landlord gave evidence that the rental unit had been owned by the tenant. The landlord had acquired the property by way of foreclosure proceedings and had leased it back to the tenant.

For that reason, he said he had tried to be particularly tolerant of the tenant. He said the tenant had lost his employment and had originally promised to move out in July of 2009 but the plan had failed.

The landlord stated that, except for \$800 paid to him for the first month of the tenancy in November of 2008, the tenant had paid no further rent for the duration of the tenancy, 13 months at \$1,400 plus the \$600 rent shortfall for November of 2008, a total of \$18,800.

The landlord said that, in view of the unusual circumstances of the tenancy, he would accept a Monetary Order for the lesser amount of \$12,000.

Analysis

Section 7 of the Act provides in part that, if either party to a rental agreement suffers a loss due to the other's failure to comply with the rental agreement, the non-compliant party must compensate the other. Section 67 of the *Act* authorizes the director's delegate to determine the amount and issue an order for repayment.

I find that the tenant owes to the landlord rent for December 1, 2008 through to December 31, 2009 inclusive and a rent shortfall for November 2008.

Therefore, I find that the landlord is entitled to a Monetary Order for the settlement amount requested by him of \$12,000. I further find that the landlord is entitled to recover the \$100 filing fee for this proceeding from the tenant.

Conclusion

The landlord's copy of this decision is accompanied by a Monetary for \$12,100.00, enforceable through the Provincial Court of British Columbia, for service on the tenant.

January 29, 2010