

Decision

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order as compensation for unpaid rent, 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, 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 month-to-month tenancy began on October 1, 2009. Rent in the amount of \$750.00 was payable in advance on the first day of each month. A security deposit of \$300.00 was collected on or about September 28, 2009.

Arising from rent which was unpaid for October, November and December 2009, the landlord issued a 10 day notice to end tenancy for unpaid rent dated December 29, 2009. The notice was served in person on the tenant on December 30, 2009.

Subsequently, the tenant made no payment towards rent and is understood to have vacated the unit sometime during the first half of February 2010.

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 December 29, 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 \$3,800.00. This is comprised of \$3,750.00 in combined unpaid rent for October, November & December 2009, as well as January & February 2010 (5 x \$750.00), in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$300.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$3,500.00 (\$3,800.00 - \$300.00).

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 **\$3,500.00**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: February 11, 2010

Dispute Resolution Officer