

Decision

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

Introduction

This hearing dealt with an application by the landlord(s) for an order of possession, a monetary order as compensation for unpaid rent, a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement, 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(s) are entitled to any or all of the above under the Act, regulation or tenancy agreement

Background and Evidence

Pursuant to a written residential tenancy agreement, a copy of which is not in evidence, the tenancy began on or about September 1, 2006. Rent in the amount of \$750.00 is payable in advance on the first day of each month. A security deposit of \$375.00 was collected on or about September 1, 2006.

Arising from rent which was unpaid when due on January 1, 2010, the landlord(s) issued a 10 day notice to end tenancy for unpaid rent dated January 2, 2010. The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenant made no further payment toward rent and continues to reside in the unit.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated January 2, 2010. 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(s) are entitled to an order of possession.

As for the monetary order, I find that the landlord(s) have established a claim of \$1,550.00. This is comprised of \$1,500.00 in unpaid rent combined for January and February 2010 (\$750.00 x 2), in addition to the \$50.00 filing fee. I order that the landlord(s) retain the security deposit of \$375.00, plus interest of \$11.99 (total: \$386.99), and I grant the landlord(s) a monetary order under section 67 of the Act for the balance owed of \$1,163.01 (\$1,550.00 - \$386.99).

Conclusion

Pursuant to all of the above, I hereby issue an order of possession in favour of the landlord(s) 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(s) in the amount of **\$1,163.01**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: February 16, 2010

Dispute Resolution Officer