Decision

Dispute Codes:

OPR, MNR, FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 55, 67, and 72 of the *Residential Tenancy Act (Act).*

Background and Evidence

The Agent for the Landlord and the Tenant agree that this tenancy began on December 01, 2008, that the Tenant is required to pay monthly rent of $1,000.00, that rent is due on the first day of each month, and that the Tenant agreed to pay a fee of $25.00 whenever he is late paying the monthly rent.

The Agent for the Landlord and the Tenant agree that a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of January 13, 2009, was personally served on the Tenant on January 02, 2009..   The Notice indicated that the Tenant is presumed to have accepted that the tenancy is ending and that the Tenant must move out of the rental by the date set out in the Notice unless the Tenant pays the outstanding rent or files an Application for Dispute Resolution within five days of the date they are deemed to have received the Notice.

The Agent for the Landlord and the Tenant agree that the Tenant still owes $1,000.00 in rent from January of 2009 and $1,000.00 in rent from February of 2009. The parties

also agree that the Tenant owes a $25.00 late payment fee from January and a $25.00 late payment fee from February.

Analysis
The evidence shows that the Tenant was served with a Notice to End Tenancy that required the Tenant to vacate the rental unit on January 13, 2009.

Section 46 of the Act stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice.   The evidence shows that the Tenant did not exercise either of these rights and, pursuant to section 46(5) of the Act, I find that the Tenant accepted that the tenancy has ended.

As the Landlord is seeking a monetary order for rent for February, I will grant the Landlord an Order of Possession that is effective on February 28, 2009. As the Parties agree that the Tenant owes $2,050.00 in unpaid rent and late fees, I will grant the Landlord a monetary Order for that outstanding debt.

I find that the Landlords application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

The Landlord has been granted an Order of Possession that is effective at 1:00 p.m. on February 28, 2009. This Order must be served on the Tenant before it is effective. In the event that the Tenant fails to comply with the Order after it is served upon him, the Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of $2,100.00, which is comprised on $2,000.00 in unpaid rent; $50.00 in late payment fees; and $50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.   Based on these determinations I grant the Landlord a monetary Order for $2,100.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Date of Decision: February 10, 2009

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