

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. Despite having been personally served with the application for dispute resolution and notice of hearing on January 26, the tenant did not participate in the conference call hearing.

At the hearing the landlord asked to amend his claim to include a claim for loss of income for the months of February and March. I find that the tenant should reasonably have known that the landlord could not re-rent the unit while he resided therein and accordingly permit the amendment.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Background and Evidence

The landlord's undisputed testimony is as follows. Rent in the amount of \$1,000.00 is payable in advance on the first day of each month. The tenant failed to pay \$600.00 of his rent in May 2009, \$700.00 of his rent in July 2009, \$200.00 of his rent in September 2009, \$300.00 of his rent in November 2009 and paid no rent whatsoever in the month of January. The landlord testified that the tenant agreed to increase the rent in January to \$1,100.00 per month. On January 12 the landlord personally served the tenant with a 10-day notice to end tenancy for unpaid rent (the "Notice"). The tenant further failed to pay rent in the months of February and March.

The tenant was responsible to pay for one half of the utilities for the residential property and failed to make those payments from May 2009 to present. The landlord entered

into evidence copies of the invoices from BC Hydro and Terasen Gas for the period of time in question which showed that \$999.59 was invoiced for Terasen Gas during that time period, \$499.80 of which was the responsibility of the tenant, and that \$1,030.90 was invoiced for BC Hydro during that time period, \$515.45 of which was the responsibility of the tenant.

Analysis

Based on the landlord's undisputed testimony, I find that the tenant was served with the Notice. The tenant did not pay the outstanding rent within 5 days of receiving the Notice and did not apply for dispute resolution to dispute the Notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. 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.

As for the monetary order, I accept that the tenant is in arrears a total of \$1,800.00 for the year 2009 and that the tenant did not pay rent in January. I find that an oral agreement to a rent increase is not enforceable and find that the tenant's rent was not increased in January and therefore the tenant only owes \$1,000.00 for that month. I further find that the landlord is entitled to recover \$1,000.00 in loss of income for each of the months of February and March. I find that the tenant was obligated to pay one half of the utilities for the residential property and that he failed to make payments in May 2009 – January 2010 inclusive. I find that the tenant owes the landlord \$499.80 for natural gas and \$515.45 for hydro. The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

In summary, the landlord has been successful in the following claims:

2009 arrears	\$1,800.00
--------------	------------

January unpaid rent	\$1,000.00
February & March loss of income	\$2,000.00
Unpaid natural gas	\$ 499.80
Unpaid hydro	\$ 515.45
Filing fee	\$ 50.00
Total:	\$5,865.25

I grant the landlord an order under section 67 for \$5,865.25. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: March 10, 2010
