

Decision

Dispute Codes: OPR, MNR, MNDC, 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, compensation for damage or loss under the Act, regulation or tenancy agreement, 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(s) did not appear.

Issues to be decided

- Whether the landlord is entitled to any of the above under the Act, regulation or tenancy agreement

Background and Evidence

Pursuant to a written tenancy agreement, the month-to-month tenancy began on May 1, 1993. Currently, rent in the amount of \$711.00 is payable in advance on the first day of each month. A security deposit of \$251.00 was collected on June 11, 1993.

Arising from rent which was unpaid when due on February 1, 2010, the landlord issued a 10 day notice to end tenancy for unpaid rent dated February 26, 2010. The notice was served by posting on the tenant(s)' door on that same date. A copy of the notice was submitted into evidence. Thereafter, the tenant(s) made no payment toward rent. The landlord's agent testified that tenant "HW" has been declared legally incompetent and his affairs are being managed by the Public Guardian and Trustee. It is understood that the majority of tenant "HW's" belongings have now been removed from the unit by the Public Guardian and Trustee, that tenant "HW" is in receipt of care at an unknown location, and that tenant "HW" will not be returning to the unit.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find that the tenant(s) were served with a 10 day notice to end tenancy for unpaid rent dated February 26, 2010. The tenant(s) did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant(s) are 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 the landlord has established a claim of \$2,155.00. This is comprised of \$683.00 in unpaid rent for February (reflecting a \$28.00 credit in favour of the tenant(s)), \$1,422.00 in unpaid rent combined for March and April (2 x \$711.00), and the \$50.00 filing fee. I order that the landlord retain the security deposit of \$251.00 plus interest of \$59.66 [total: \$310.66], and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$1,844.34 (\$2,155.00 - \$310.66).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service upon the tenant(s). This order must be served on the tenant(s). Should the tenant(s) 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 \$1,844.34. Should it be necessary, this order may be served on the tenant(s), filed in the Small Claims Court and enforced as an order of that Court.

DATE: April 30, 2010

Dispute Resolution Officer