DECISION

Dispute Codes   CNR, FF, OPR, MNR, MNSD

Introduction

This hearing was convened by conference call to deal with the landlord's application for an Order of Possession for unpaid rent, a monetary order for unpaid rent, an order permitting the landlord to retain the security deposit in partial satisfaction of the claim, and to recover the filing fee from the tenant for the cost of this application. Further, the hearing was to deal with the tenant's application for an order cancelling the notice to end tenancy for unpaid rent, and to recover the filing fee from the landlord for the cost of the application.

Despite being served with the notice of hearing documents by registered mail on February 18, 2010, the tenant did not attend the hearing. For that reason, the tenant's application is dismissed without leave to reapply.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?
Is the landlord entitled to a monetary order for unpaid rent?
Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

This tenancy began on October 1, 2009 as a fixed term tenancy to expire on October 1, 2010. Rent in the amount of $1,100.00 is payable on the 1st of each month. On September 14, 2009, the tenant paid a security deposit in the amount of $550.00, but the landlord testified that because the unit was new, no inspection-in report was completed.

The landlord testified that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued to the tenant, dated February 8, 2010, requiring the tenant to vacate the unit

on February 18, 2010. That notice was posted to the tenant's door on February 8, 2010. The tenant did not vacate the unit pursuant to that notice, but the landlord believes she moved out on March 31, 2010, although he is not sure if she has removed all of her belongings. The landlord is claiming unpaid rent for the month of February. The tenant further failed to pay rent in the month of March, 2010.

The landlord further testified that the tenant is a single mother, and as such is dramatic and unreliable. I do not accept that evidence and make no findings with respect to his judgmental comments without any corroboration or evidence to support that claim, but questioned the landlord about his decision to rent to a single mother and his ability to prove a claim based on his prejudicial comments.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent. The landlord failed to allow the 3 days required under the *Act* for service, and I find that the tenant was deemed to be served on February 11, 2010, and the notice is deemed to be changed to show the expected date of possession is February 21, 2010, pursuant to Section 53 of the *Residential Tenancy Act*.

The tenant has not paid the outstanding rent and has not appeared 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.

Conclusion

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 find that the landlord has established a claim for $2,200.00 in unpaid rent. The landlord is also entitled to recovery of the $50.00 filing fee. I order that the landlord retain the deposit and interest of $550.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of $1,700.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 06, 2010.

_____

Dispute Resolution Officer