

DECISION

Dispute Codes: OPR, MNR, MND and FF

Introduction

This application was brought by the landlord seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served in person on February 2, 2010. The landlord also sought a Monetary Order for the unpaid rent, damage to the rental unit and recovery of the filing fee for this proceeding.

At the commencement of the hearing, the landlord advised that the tenant had vacated the rental unit on or about March 31, 2010 and withdrew the request for an Order of Possession.

Despite having been served with the Notice of Hearing in person, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, the hearing proceeded in his absence.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to a Monetary Order for the unpaid rent, damages and filing fee for this proceeding.

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Background and Evidence

This tenancy began on October 1, 2009. Rent was \$500 per month and there was no security deposit.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served when the tenant had a rent shortfall of \$200 for the December 2009 rent and had paid no rent for January or February of 2010.

In the interim, those amounts remained unpaid and the tenant failed to pay the rent for March and remained in the rental unit in March 2010, leaving at the end of the month without giving notice.

The landlord also claims \$1,000 for cleaning, repairs and refuse disposal although he has submitted no evidence in support of these claims.

Analysis

Section 26 of the *Act* provides that a tenant must pay the rent when it is due.

Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that the tenant did not pay the rent within five days of receiving the notice and did not make application to dispute it. Therefore, under section 46(5) of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ended on the date specified in the second Notice to End Tenancy which was February 12, 2010.

Accordingly, I find that the landlord is entitled to a Monetary Order for unpaid rent and, having found merit in the application, I find that the landlord may recover the filing fee for this proceeding from the tenant.

In the absence of any documentary or corroborating evidence of the claim for cleaning, damage and refuse disposal, I must dismiss this claim without leave to reapply.

Therefore, I find that the tenant owes the landlord an amount calculated as follows:

December 2009 rent shortfall	\$ 200.00
January 2010 rent	500.00
February 2010 rent	500.00
March 2010 rent	500.00
Filing fee	<u>50.00</u>
TOTAL	\$1,750.00

Conclusion

The landlord's copy of this decision is accompanied by a Monetary Order for \$1,750.00, enforceable through the Provincial Court of British Columbia, for service on the tenant.

April 27, 2010