

DECISION

Dispute Codes: MNDC, MNSD and FF

Introduction

This application was brought by the landlord seeking a Monetary Order for loss of rent after the tenant ended the tenancy on short notice. The landlord also sought to recover the filing fee for this proceeding from the tenant and authorization to retain the security deposit in set off against the balance found owing.

Despite having been served with the Notice of Hearing sent by registered mail on December 9, 2009, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to a Monetary Order for the claims presented.

Background and Evidence

This tenancy began on September 1, 2008 and ended on November 27, 2009. Rent was \$700 per month and the landlord holds a security deposit of \$350 paid on August 22, 2008. The tenancy began under a 12-month fixed term agreement, becoming a month to month tenancy September 1, 2009.

During the hearing, the landlord gave evidence that the tenant had, on November 7, 2009, given notice of her intention to conclude the tenancy on November 30, 2009. Despite advertising in a variety of mediums, the landlord was unable to find a new tenant for December.

The tenant signed the move-out Condition inspection Report and the Security Deposit Statement, both of which included the landlord's intention to claim on the security deposit.

Analysis

Section 45 of the *Act* provides that a tenant may end a month to month tenancy by giving at least one month notice on a day before the last rent payment is due. In this instance, the notice of November 7, 2009 should have set an end date of December 31, 2009.

Therefore, I find that the tenant did not give the required notice and that she is responsible for the December rent.

Accordingly, I find that the landlord is entitled to a Monetary Order, including recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off as follows:

Loss of rent for December 2009	\$700.00
Filing fee	50.00
Sub total	\$750.00
Less retained security deposit	- 350.00
Less retained interest (August 22, 2008 to date)	- 1.89
TOTAL	\$398.11

Conclusion

In addition to authorization to retain the tenant's security deposit with interest, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for \$398.11 for service on the tenant.

April 27, 2010