

Decision

Dispute Codes: OPR, MNR, MNDC, MNSD

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order as compensation for unpaid rent, and compensation for damage or loss under the Act, regulation or tenancy agreement. The landlord has not applied to recover 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 or all of the above under the Act, regulation or tenancy agreement

Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the month-to-month tenancy began on February 1, 2010. Rent in the amount of \$1,250.00 is payable in advance on the first day of each month. A security deposit of \$625.00 was collected on or about January 20, 2010.

Arising from rent which was unpaid when due on March 1, 2010, the landlord issued a 10 day notice to end tenancy for unpaid rent dated March 4, 2010. The notice was served in person on the tenant(s) on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenant(s) made no further payment toward rent and the tenant, her partner and four children continue to reside in 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 March 4, 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 that the landlord has established a claim of \$3,750.00, comprised of unpaid rent combined for March, April and May 2010 (3 x \$1,250.00). I order that the landlord retain the security deposit of \$625.00 and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$3,125.00 (\$3,750.00 - \$625.00).

Conclusion

Pursuant to all of the above, 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 **\$3,125.00**. This order may be served on the tenant(s), filed in the Small Claims Court and enforced as an order of that Court.

DATE: May 3, 2010

Dispute Resolution Officer