

Decision

Dispute Codes: OPR, MNR, 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, 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 in person on March 21, 2010, with the application for dispute resolution and notice of hearing, the tenants did not appear.

The landlord's agent requested an amendment to the original application by including an application to retain the security deposit, and have it used to offset any monetary order that may be issued as compensation for unpaid rent. Pursuant to Residential Tenancy Branch Rules of Procedure # 8.4, and in the absence of an appearance by the tenants, I find that granting the landlord's request under the circumstances of this dispute does not offend the principles of natural justice. I therefore grant the request.

Issues to be decided

- Whether the landlord is entitled to any or all of the above under the Act

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy was for one year beginning October 1, 2008. Thereafter, tenancy has continued on a month-to-month basis. Rent in the amount of \$2,900.00 is payable in advance on the first day of each month. A security deposit of \$1,450.00 was collected on or about October 1, 2008.

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 2, 2010. The notice was served in person on the tenants, as well as posted on the tenants' door on that same

date. A copy of the notice was submitted into evidence. Subsequently, the tenants made no payments toward rent and are understood to have vacated the unit on or about May 4, 2010, without providing notice or a forwarding address.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated March 2, 2010. The tenants did not pay the outstanding rent within 5 days of receiving the notice, did not apply to dispute the notice, and have now vacated the unit. 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 \$8,750.00. This is comprised of \$8,700.00 in unpaid rent combined for March, April and May (3 x \$2,900.00), in addition to the \$50.00 filing fee. I order the landlord to retain the security deposit of \$1,450.00 plus interest of \$5.47, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$7,294.53 (\$8,750.00 - \$1,455.47).

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service upon the tenants. This order must be served on the tenants. Should the tenants 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 \$7,294.53. This order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: May 5, 2010

Dispute Resolution Officer