

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. Both parties participated in the hearing and gave affirmed testimony.

At the outset of the hearing the tenant consented to the landlord's request to amend his application to include retention of the security deposit. Accordingly, the application is so amended.

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 is from August 15, 2009 to August 30, 2010. Rent in the amount of \$890.00 is payable in advance on the first day of each month. A security deposit of \$445.00 was collected on or about August 15, 2009. A move-in condition inspection and report were completed at the outset of tenancy.

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 5, 2010. The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenant made no further payments toward rent and continues presently to reside in the unit.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated March 5, 2010. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant is 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 \$2,720.00. This is comprised of \$2,670.00 in unpaid rent combined for the months of March, April & May 2010 (3 x \$890.00), in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$445.00 and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$2,275.00 (\$2,720.00 - \$445.00).

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. This order must be served on the tenant. 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.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$2,275.00**. Should it be necessary, this order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: May 7, 2010

Dispute Resolution Officer