

Decision

Dispute Codes: OPL, MNR, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order as compensation for unpaid rent and utilities, compensation for damage or loss under the Act, regulation or tenancy agreement, and recovery of the filing fee. The landlord participated in the hearing and gave affirmed testimony.

Despite being served in person and by way of registered mail with the application for dispute resolution and notice of hearing, the tenants 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

A copy of the written tenancy agreement is not in evidence for this month-to-month tenancy which began on or about January 1, 2010. Rent in the amount of \$700.00 plus utilities in the amount of \$50.00 is payable on the last day of each month. No security deposit was collected.

The landlord issued a 2 month notice to end tenancy for landlord's use of property dated April 1, 2010. The notice was served in person on the tenants on that same date. The date shown on the notice by when the tenants must move out of the unit is June 1, 2010. The tenants did not dispute the notice and continue to reside in the unit.

Reasons shown on the notice for its issuance are as follows:

The rental unit will be occupied by the landlord or the landlord's spouse or a close family member (father, mother, or child) of the landlord or the landlord's spouse.

The landlord is the agent of the owner of the property. The landlord stated that the owner's son and daughter-in-law plan to move into the unit.

The landlord testified that rent and utilities combined remain overdue for 2010 as follows:

\$50.00: *January*

\$375.00: *February*

\$375.00: *March*

\$375.00: *April*

\$2,250.00: *May, June, July (3 x \$750.00)*

Sub-total: \$3,425.00

Analysis

The full text of the Act, regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenants were served with a 2 month notice to end tenancy for landlord's use of property dated April 1, 2010. The tenants did not dispute the notice within 15 days of receiving the notice. The tenants are therefore conclusively presumed under section 49(9) 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.

Pursuant to the details set out above, I find that the landlord has established a claim of \$3,425.00. As the landlord has succeeded in this application, I also find the landlord is entitled to recover the \$50.00 filing fee. As for the monetary order, therefore, I find that the landlord has established entitlement to \$3,475.00 (\$3,425.00 + \$50.00). I order that this amount be reduced by \$700.00 or one month's rent, pursuant to section 51 of the Act, and I grant the landlord a **monetary order** under section 67 of the Act for the balance owed of **\$2,775.00** (\$3,475.00 - \$700.00).

Section 51 of the Act speaks to **Tenant's compensation: section 49 notice**, and provides in part:

51(1) A tenant who receives a notice to end a tenancy under section 49 *[landlord's use of property]* is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

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 **\$2,775.00**. This order may be served on the tenants and, should it be necessary, filed in the Small Claims Court and enforced as an order of that Court.

DATE: July 21, 2010

Dispute Resolution Officer