

Decision

Dispute Codes: OPR, MNR, MNDC, MNSD

Introduction

This hearing dealt with an application by the landlords for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, regulation or tenancy agreement / and retention of the security deposit. The application does not include an application for recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the landlords are entitled to any or all of the above under the Act, regulation or tenancy agreement

Background and Evidence

There is no written tenancy agreement in evidence for this month-to-month tenancy which began on or about July 1, 2008. Rent in the amount of \$800.00 is payable in advance on the first day of each month. A security deposit of \$400.00 was collected at the outset of tenancy.

Arising from rent which was unpaid (\$800.00) when due on June 1, 2010, the landlords issued a 10 day notice to end tenancy for unpaid rent dated June 15, 2010.

Subsequently, the tenant has made no payment towards rent and continues to reside in the unit.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute, and shared the hope that the tenant may be able to acquire sufficient funds to pay the overdue rent within the next few days.

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 testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated June 15, 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 landlords are entitled to an order of possession.

As for the monetary order, I find that the landlords have established a claim of \$2,400.00. This is comprised of unpaid rent combined for the three (3) months of June, July & August 2010. I order that the landlords retain the security deposit of \$400.00 plus interest of \$3.02 (total: \$403.02), and I grant the landlords a monetary order under section 67 of the Act for the balance owed of \$1,996.98 (\$2,400.00 - \$403.02).

Conclusion

I hereby issue an **order of possession** in favour of the landlords 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 landlords in the amount of **\$1,996.98**. 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: August 16, 2010

Dispute Resolution Officer