

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 September 4, 2010 with the application for dispute resolution and notice of hearing, the tenant did not appear.

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, a copy of which is not in evidence, the month-to-month tenancy began on January 1, 2010. Rent in the amount of \$850.00 is payable in advance on the first day of each month. A security deposit of \$425.00 was collected at the outset of tenancy.

The tenant has repeatedly been in arrears with full payment of rent since the start of tenancy and has, instead, made installment payments. The landlord issued a 10 day notice to end tenancy for unpaid rent dated August 16, 2010, a copy of which is not in evidence. Subsequently, the tenant made a payment of \$855.00 on September 4, 2010, and a further payment of \$500.00 on September 23, 2010. No payments toward rent have since been made. At the time of this hearing, rent remains overdue in the amount of \$1,940.00, and the tenant continues to reside in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated August 16, 2010. The tenant did not pay the full amount of 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 in the amount of \$1,990.00. This is comprised of unpaid rent of \$1,940.00 in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$425.00 and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$1,565.00 (\$1,990.00 - \$425.00).

Conclusion

Pursuant to 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 \$1,565.00. 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: October 13, 2010

Dispute Resolution Officer