

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 service of the application for dispute resolution and notice of hearing by way of posting on the tenant's door, 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

What is a month-to-month tenancy began approximately two years ago. Rent in the amount of \$600.00 is payable in advance on the first day of each month. A security deposit of \$300.00 was collected at or around the outset of tenancy.

Arising from rent which was not fully paid when due over several months, the landlord issued a 10 day notice to end tenancy for unpaid rent dated August 17, 2010. The notice was served by way of posting on the tenant's door on that same date. A copy of the notice was submitted into evidence, and shows that a total of \$2,027.50 was overdue on August 1, 2010. Subsequently, the tenant made partial payments toward overdue rent as follows:

\$300.00: September 20, 2010

\$400.00: October 9, 2020

\$300.00: October 15, 2010

Presently, therefore, rent remains outstanding in the total amount of \$2,227.50.

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 17, 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 of \$2,277.50, which is comprised of unpaid rent totaling \$2,227.50, plus the \$50.00 filing fee. I order that the landlord retain the security deposit of \$300.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$1,977.50 (\$2,277.50 - \$300.00).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on 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 **\$1,977.50**. 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 18, 2010

Dispute Resolution Officer