

Decision

Dispute Codes: OPR, MNR, MNDC, 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, compensation for damage or loss under the Act, regulation or tenancy agreement, 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 by way of registered mail with the application for dispute resolution and notice of hearing, the tenant did not appear. In a letter to the landlord dated September 20, 2010, the tenant stated, in part, that "[the Residential Tenancy Branch] stated that [the landlord] cannot evict me until after October 20, 2010 hearing is [sic]."

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

What is presently a month-to-month tenancy began on April 1, 2003. Currently, rent in the amount of \$1,370.00 is payable in advance on the first day of each month. A security deposit of \$675.00 was collected at the outset of tenancy.

Arising from rent which was unpaid when due on September 1, 2010, the landlord issued a 10 day notice to end tenancy for unpaid rent dated September 4, 2010. A copy of the notice was submitted into evidence. Subsequently, the tenant paid no rent for either September or October 2010, and continues to reside in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated September 4, 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 \$2,790.00, comprised of \$1,370.00 in unpaid rent for September, \$1,370.00 in unpaid rent for October, in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$675.00 plus interest of \$23.90, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$2,091.10 (\$2,790.00 - \$698.90).

Conclusion

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 **\$2,091.10**. 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 20, 2010

Dispute Resolution Officer