

Decision

Dispute Codes: OPR, MNR, MNDC, FF

Introduction

This hearing dealt with the landlord's application 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 recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony.

Despite being served in person on December 10, 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, regulation or tenancy agreement

Background and Evidence

There is no written tenancy agreement in evidence for this month-to-month tenancy which began approximately 3 years ago. Monthly rent is \$800.00, and no security deposit or pet damage deposit was ever collected.

Arising from rent which remained overdue in various amounts from previous months, the landlord issued a 10 day notice to end tenancy for unpaid rent dated November 26, 2010. The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence. The amount of rent shown as overdue on the notice is \$2,200.00. Subsequently, the tenant made a grand total payment of \$3,000.00 on December 16, 2010. That payment discharged the rental arrears of \$2,200.00 in addition to rent due for December 2010 of \$800.00. Presently, rent remains overdue for January 2011 in the full amount of \$800.00.

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 November 26, 2010. While the tenant paid the outstanding rent on December 16, 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 \$850.00. This is comprised of \$800.00 in unpaid rent for January 2011, in addition to the \$50.00 filing fee.

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 \$850.00. 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: January 5, 2011

Dispute Resolution Officer