

Decision

Dispute Codes: OPR, MNR, MNDC, MNSD, 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 / retention of the security + pet damage deposits / and recovery of the filing fee. Both parties participated and gave affirmed testimony.

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 the month-to-month tenancy which began on July 15, 2010. Rent in the amount of \$1,450.00 is payable in advance on the first day of each month. A security deposit and pet damage deposit in the combined amount of \$900.00 was collected on July 12, 2010.

Arising from rent which remained overdue on December 1, 2010, the landlord issued a 10 day notice to end tenancy dated December 10, 2010. The landlord testified that \$275.00 was overdue for November and \$1,450.00 was overdue for December 2010. Subsequently, the tenants made payment on January 4, 2011 in the limited amount of \$900.00. In summary, the landlord testified that the status of overdue rent is as follows:

\$275.00: Overdue Rent for November 2010

\$1,450.00: Overdue Rent for December 2010

\$1,450.00: Overdue Rent for January 2011

Sub-total of Overdue Rent: \$3,175.00

Installment payment of \$900.00 on January 4, 2011

Total Overdue Rent: \$2,275.00 (\$3,175.00 - \$900.00)

Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated December 10, 2010. The tenants did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenants are 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; the landlord requested an effective date of January 31, 2011.

As for the monetary order, I find that the landlord has established a claim of \$2,275.00 in overdue rent, as set out above, in addition to the \$50.00 filing fee (total: \$2,325.00). I order that the landlord retain the security deposit and pet damage deposit combined of \$900.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$1,425.00 (\$2,325.00 - \$900.00).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Monday, January 31, 2011**. This order must be served on the tenants. Should the tenants 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 **\$1,425.00**. Should it be necessary, this order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.