

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 was represented at the hearing and gave affirmed testimony.

Despite mailing of the application for dispute resolution and notice of hearing (the “hearing package”) on January 25, 2011, by way of registered mail, the tenants did not appear. Included in evidence submitted by the landlord are the Canada Post tracking numbers for the registered mailings. Pursuant to section 90 of the Act, the hearing packages are deemed to be received on the 5th day after mailing.

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

Pursuant to a written tenancy agreement, the month-to-month tenancy began on April 1, 2008. Monthly rent is \$1,200.00 and a security deposit of \$600.00 was collected.

Arising from rent which was unpaid when due on January 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent dated January 11, 2011. The notice was served on the tenants by way of posting on their door on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenants have made no payment toward rent for either January or February 2011, and they continue to reside in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated January 11, 2011. 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.

As for the monetary order, I find that the landlord has established a claim of \$2,525.00. This is comprised as follows:

\$1,200.00: unpaid rent for January 2011

\$25.00: fee for late payment of rent

\$25.00: NSF fee

\$1,200.00: unpaid rent for February 2011

\$25.00: fee for late payment of rent

\$50.00 filing fee

Sub-total: \$2,525.00

I order that the landlord retain the security deposit of \$600.00 plus interest of \$6.76, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$1,918.24 (\$2,525.00 - \$606.76).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service upon the tenants. 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 **\$1,918.24**. 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.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the *Residential Tenancy Act*.

DATE: February 9, 2011

Residential Tenancy Branch