

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 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 "hearing package"), the tenant did not appear. Included in the landlord's evidence is a copy of the Canada Post tracking number for the registered mailing of the hearing package.

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 fixed term of tenancy is from December 1, 2010 to May 31, 2011. Rent of \$825.00 is payable in advance on the first day of each month. A security deposit of \$412.50 was collected at the outset of tenancy.

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 4, 2011. The notice was served on that same date by way of posting on the deadbolt of the unit's main entrance. A copy of the notice was submitted into evidence. Subsequently, on February 1, 2011, the tenant made payment in the amount of \$730.00.

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 January 4, 2011. 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 \$1,017.50, which is comprised as follows:

\$822.50: rent owed for January 2011

\$25.00: fee for late payment of January rent

\$95.00: balance of rent owed for February 2011 (\$825.00 - \$730.00)

\$25.00: fee for late payment of February rent

\$50.00: filing fee

Sub-total: \$1,017.50

I order that the landlord retain the security deposit of \$412.50, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$605.00 (\$1,017.50 - \$412.50).

Conclusion

Pursuant to all of the above, 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 **\$605.00**. 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: February 1, 2011

Dispute Resolution Officer