

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. Both parties participated in the hearing 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

Pursuant to a written tenancy agreement, the fixed term of tenancy is from October 1, 2010 to September 30, 2011. Monthly rent is \$975.00, and a security deposit of \$487.50 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 2, 2011. Subsequently, the tenant paid the overdue rent in addition to the \$20.00 fee for late payment of rent on or about January 21, 2011. To date, rent has not been paid for February 2011 and the tenant continues to reside in the unit.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated January 2, 2011. 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 \$1,045.00, which is comprised of unpaid rent for February 2011 (\$975.00), the fee for late payment of rent (\$20.00), and the filing fee (\$50.00). The landlord has not applied to retain the security deposit.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on 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 **\$1,045.00**. 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.

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 7, 2011

Residential Tenancy Branch