

Decision

Dispute Codes: OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / and recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony.

Despite mailing of the application for dispute resolution and notice of hearing by way of registered mail, the tenant did not appear. Included in the landlord's evidence is the Canada Post tracking number for the registered 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 term of tenancy is from December 1, 2010 to May 31, 2011. Monthly rent is \$1,515.00, monthly parking is \$50.00, and a security deposit of \$757.50 was collected.

Arising from rent and parking which remained overdue on January 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent dated January 4, 2011 (\$1,607.74). The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence. Subsequently, a payment was made by the tenant on or about January 20, 2011 in the amount of \$375.00. The tenant continues to reside in the unit.

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 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 \$2,847.74, which is comprised as follows:

\$1,232.74: unpaid balance from December, 2010 & January 2011 (\$1,607.74 - \$375.00)

\$1,515.00: unpaid rent for February 2011

\$50.00: unpaid parking for February 2011

\$50.00: filing fee

Total: \$2,847.74

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 **\$2,847.74**. 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 16, 2011

Residential Tenancy Branch