

Decision

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / retention of the security deposit / 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 of the above under the Act

Background and Evidence

Pursuant to a written tenancy agreement, the tenancy began on October 1, 2006. Monthly rent is currently \$1,393.00, and a security deposit of \$675.00 was collected at the start of tenancy.

Arising from rent which was unpaid when due on February 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent dated February 12, 2011. The notice was served in person on the tenants on that same date. A copy of the notice was submitted into evidence. The tenants do not dispute that they have subsequently made no payment toward rent and they continue to reside in the unit.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute and undertook to achieve a partial resolution.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

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 February 12, 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.

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a partial resolution. Specifically, it was agreed as follows:

- that the tenants will vacate the unit by not later than 1:00 p.m. on Sunday, March 6, 2011, and that the order of possession will be issued in favour of the landlord to that effect;
- that the parties will meet at the unit at Noon, on Sunday, March 6, 2011 in order to complete a move-out condition inspection;
- that the tenants will return the keys and provide the landlord with their forwarding address at the above meeting.

As for the monetary order, I find that the landlord has established a claim of \$1,712.64. This is comprised of \$1,393.00 for unpaid rent for February, \$269.64 for unpaid rent for the period from March 1 to 6 [$(\$1,393.00 \div 31) \times 6$], and the \$50.00 filing fee. I order that the landlord retain the security deposit of \$675.00 plus interest of \$21.29 [total: \$696.29], and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$1,016.35 ($\$1,712.00 - \696.29).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **1:00 p.m., Sunday, March 6, 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 **\$1,016.35**. 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: March 1, 2011

Residential Tenancy Branch

