

Decision

Dispute Codes: OPR, MNR, 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 / 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

There is no written tenancy agreement in evidence for this tenancy which began on or about November 1, 2010. Monthly rent is \$800.00, and a security deposit of \$400.00 was collected.

Arising from rent which was not fully paid when due on February 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent dated February 9, 2011. The notice was served in person on the tenants on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenants made no further payments toward rent and the landlord's agent testified that the tenants continue to reside in the unit.

Analysis

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 9, 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 \$1,250.00. This is comprised as follows: \$400.00: unpaid rent for February 2011; \$800.00: unpaid rent for March 2011; and the \$50.00: filing fee.

I order that the landlord retain the security deposit of \$400.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$850.00 (\$1,250.00 - \$400.00).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective **two (2) days** after service on 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 **\$850.00**. 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 8, 2011

Residential Tenancy Branch