

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 or all of the above under the Act

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy was from December 1, 2009 to May 31, 2010. Thereafter, tenancy has continued on a month-to-month basis. Monthly rent is \$1,100.00, and a security deposit of \$550.00 was collected.

Arising from rent which remained unpaid on February 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent dated February 6, 2011. The notice was served in person on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenant has made no further payment toward rent and he continues to reside in the unit.

During the hearing the parties exchanged views on circumstances surrounding the dispute, and undertook to attempt to resolve the dispute outside of the hearing. In the meantime, the tenant does not dispute that the landlord has likely established entitlement to an order of possession and a monetary order.

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 February 6, 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 \$2,705.00. This is comprised as follows:

\$455.00: unpaid rent for January 2011

\$1,100.00: unpaid rent for February 2011

\$1,100.00: unpaid rent for March 2011

\$50.00: filing fee

Sub-total: \$2,705.00

I order that the landlord retain the security deposit of \$550.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$2,155.00 (\$2,705.00 - \$550.00).

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective **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 **\$2,155.00**. 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: March 16, 2011

Residential Tenancy Branch