

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 or utilities / 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

There is no written tenancy agreement in evidence for this tenancy which began approximately 3 years ago. Monthly rent is \$550.00, and no security deposit was collected.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated May 30, 2011. The notice was served by way of posting on the tenant's door on that same date. A copy of the notice was submitted into evidence. The parties appear to agree that, subsequently, the tenant's payment toward rent was limited to \$100.00 on May 31, 2011. The landlord testified that the tenant's installment payments toward rent for all of 2011 so far, total \$1,200.00. During the hearing the tenant identified various receipts in his possession for some of these installment payments. The landlord testified that the months identified in his application as months where no rent has been paid, are far fewer than the months when, indeed, the full amount of rent has not been paid.

As for 2010, the tenant does not dispute the landlord's position which is that no rent was paid for either October or December.

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 May 30, 2011. The tenant did not pay the entire amount of 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, based on the testimony of the parties and the limited documentary evidence, I find on a balance of probabilities that the landlord has established a claim of \$2,800.00. This is comprised of the \$50.00 filing fee, in addition to \$2,750.00 in unpaid rent, calculated on the basis of \$550.00 for each of the following 5 months: October & December 2010, January, April & May 2011 (5 x \$550.00).

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 **\$2,800.00**. 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: July 5, 2011

Residential Tenancy Branch