

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 or utilities / retention of the security deposit / and recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony.

The landlord's application for dispute resolution and notice of hearing were posted on the tenant's door on July 16, 2011, however, the tenant did not attend the hearing.

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 original fixed term of tenancy is from April 1, 2010 to March 31, 2011. Thereafter, tenancy has continued on a month-to-month basis. A security deposit of \$625.00 was collected. Monthly rent of \$1,280.00 is due and payable in advance on the first day of each month. A move-in condition inspection and report were completed on March 23, 2010.

Arising from rent which was unpaid when due on June 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent or utilities dated June 2, 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. Subsequently, the tenant made full payment of overdue rent by way of cheque dated June 18, 2011. The landlord issued a receipt "for use and occupancy only." Presently, the tenant has made no payment toward rent for July and she continues to reside in the unit. The landlord seeks an order of possession effective July 31, 2011, in addition to a monetary order as compensation for unpaid rent for July and recovery of the filing fee.

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 or utilities dated June 2, 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 \$1,330.00. This is comprised of \$1,280.00 in unpaid rent for July, in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$625.00 and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$705.00 (\$1,330.00 - \$625.00).

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **1:00 p.m., Sunday, July 31, 2011**. 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 \$705.00. 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: July 11, 2011

Residential Tenancy Branch