

Decision

Dispute Codes: OPR, MNR, MNDS, 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 participated in the hearing and gave affirmed testimony.

On July 5, 2011 the application for dispute resolution and notice of hearing (the "hearing package") was served in person on tenant "SM" and tenant "WH-S." The hearing package was served on tenant "JS" by way of registered mail. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mail. Despite all of the foregoing, none of the tenants appeared at 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, a copy of which is not in evidence, the tenancy began on May 1, 2009. Monthly rent of \$1,600.00 is payable in advance on the first day of each month. While there are 3 tenants, tenant "SM" is the only remaining original tenant, and over time the 2 other tenants have changed. The amount of security deposit currently retained by the landlord is \$740.00.

Arising from rent which was unpaid in full when due on June 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent dated June 16, 2011. A copy of the notice was served to each of the tenants by in-person delivery to tenant "SM" on June 16, 2011. A copy of the notice was submitted into evidence. Subsequently, the tenants have not made full payment of outstanding rent for either June or July 2011.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenants were served with a 10 day notice to end tenancy for

unpaid rent dated June 16, 2011. The tenants did not pay the full amount of 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 \$1,120.00. This is comprised of \$535.00 in unpaid rent for June, \$535.00 in unpaid rent for July, in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$740.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$380.00 (\$1,120.00 - \$740.00).

I find that as the landlord's application for compensation for unpaid rent for August is premature, it is hereby dismissed with leave to reapply.

The attention of the parties is drawn to Residential Tenancy Policy Guideline #13 which speaks to "Rights and Responsibilities of Co-tenants," and provides in part as follows:

Co-tenants are jointly and severally liable for any debts or damages relating to the tenancy. This means that the landlord can recover the full amount of rent, utilities or any damages from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord.

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **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 \$380.00. 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: July 28, 2011

Residential Tenancy Branch