

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. Despite being served by way of registered mail with the application for dispute resolution and notice of hearing (the "hearing package"), the tenant did not appear. Evidence submitted by the landlord includes the Canada Post tracking number for the registered mailing.

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 first of what are 2 fixed terms of tenancy spanned the period from November 1, 2010 to March 31, 2011. Monthly rent of \$825.00 was payable in advance on the first day of each month, and a security deposit of \$390.00 was collected. Following the expiration of the aforementioned fixed term, a new fixed term tenancy was entered into for the period from April 1, 2011 to January 31, 2012. Rent remained unchanged and the previously collected security deposit was carried forward.

As a result of only partial payments toward rent made by the tenant during the preceding months, the landlord issued a 10 day notice to end tenancy for unpaid rent dated June 10, 2011. The notice was served by way of posting on the tenant's door on June 13, 2011. A copy of the notice was submitted into evidence, and it shows unpaid rent in the total amount of \$2,475.00. Subsequently, the tenant made no further payments toward rent and she continues to reside in the unit.

Analysis

Based on the documentary evidence and 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 dated June 10, 2011. The tenant did not pay the full amount of rent outstanding 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 \$3,350.00. This is comprised of \$2,475.00 in unpaid rent as at June 1, 2011, in addition to unpaid rent for July of \$825.00, and the \$50.00 filing fee. I order that the landlord retain the security deposit of \$390.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$2,960.00 (\$3,350.00 – \$390.00).

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 \$2,960.00. 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 25, 2011

Residential Tenancy Branch