

Decision

Dispute Codes: OPR, MNR, MND, MNDC, MNSD, FF

Introduction

This hearing was convened in response to an application by the landlords for an order of possession / a monetary order as compensation for unpaid rent or utilities / compensation for damage to the unit, site or property / compensation for damage or loss under the Act, regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. The landlords participated in the hearing and gave affirmed testimony.

The landlords testified that the application for dispute resolution and notice of hearing (the “hearing package”) were served in person on the tenants on July 22, 2011. Evidence submitted by the landlords includes a “proof of service” signed by male tenant “D.B.,” acknowledging receipt of the hearing package.

Issues to be decided

- Whether the landlords are entitled to any or all of the above under the Act, Regulation or tenancy agreement

Background and Evidence

Pursuant to a written tenancy agreement, the original term of tenancy is from April 1 to August 1, 2011. Thereafter, the agreement provides for a month-to-month tenancy. Monthly rent of \$2,000.00 is payable in advance on the first day of each month, and a security deposit of \$1,000.00.00 was collected.

Arising from rent which remained overdue on July 1, 2011, the landlords issued a 10 day notice to end tenancy for unpaid rent dated July 13, 2011. The notice was served by way of posting on the tenants’ door on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenants made no further payment toward rent and they continue to reside in the unit.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

Based on the documentary evidence and the affirmed / undisputed testimony of the landlords, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated July 13, 2011. The tenants did not pay the 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 landlords are entitled to an order of possession.

As for the monetary order, I find that the landlords have established a claim of \$4,250.00. This is comprised of \$200.00 in unpaid rent for June, \$2,000.00 in unpaid rent for July, \$2,000.00 in unpaid rent for August, and the \$50.00 filing fee. I order that the landlords retain the security deposit of \$1,000.00, and I grant the landlords a monetary order under section 67 of the Act for the balance owed of \$3,250.00 (\$4,250.00 - \$1,000.00).

Pending the end of tenancy, the landlords' application for a monetary order as compensation for damage to the unit, site or property / and compensation for damage or loss under the Act, Regulation or tenancy agreement, is hereby dismissed with leave to reapply.

Conclusion

I hereby issue an order of possession in favour of the landlords effective not later than **two (2) days** after service of this Order 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 landlords in the amount of \$3,250.00. 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: August 24, 2011

Residential Tenancy Branch