

Decision

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to 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. Both parties participated in the hearing and gave affirmed testimony. At the tenant's request, the style of cause for the tenant was amended to show the correct spelling of his surname.

Issues to be decided

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

Background and Evidence

There is no written tenancy agreement in evidence for the tenancy which began for this particular tenant more than 4 years ago. Currently, monthly rent of \$660.00 is payable in advance on the first day of each month, and a security deposit of \$265.00 was originally collected in August 2000.

Arising from rent which remained overdue on October 1, 2011, the landlord issued a 10 day notice to end tenancy for unpaid rent dated October 5, 2011. The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenant has not made full payment of overdue rent and he continues to reside in the unit.

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 October 5, 2011. The tenant 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 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 \$780.00, which is comprised as follows:

\$60.00: calculated on the basis of \$10.00 per month for each of the 6 months from April to September 2011;

\$335.00: October 2011

\$335.00: November 2011

\$50.00: filing fee

Total: \$780.00

I order that the landlord retain the security deposit of \$265.00 plus interest of \$20.02 (total: \$285.02), and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$494.98 (\$780.00 - \$285.02).

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 **\$494.98**. 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: November 16, 2011

Residential Tenancy Branch