

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. The landlord 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 mail.

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

Pursuant to a written tenancy agreement, the month-to-month tenancy began on October 1, 2011. Monthly rent of \$950.00 is payable in advance on the first day of each month. No security deposit was collected. Payment received directly from the Ministry on behalf of the tenant, towards rent for the month of October, was limited to \$405.00.

Following from the above, the landlord issued a 10 day notice to end tenancy for unpaid rent dated October 13, 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 no additional payment to the landlord for October's rent.

Thereafter, payment received from the Ministry on behalf of the tenant, towards rent for the month of November, was limited to \$405.00. No additional payment toward November's rent has been made by the tenant. Further, no rent whatsoever has thus far been paid by either the Ministry or the tenant for December, and the tenant continues to reside in the unit.

Analysis

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated October 13, 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 has established entitlement to an order of possession.

As for the monetary order, I find that the landlord has established a claim of \$2,100.00, as follows:

\$545.00: *October rent* (\$950.00 - \$405.00)

\$ 20.00: *fee for late payment of rent*

\$545.00: *November rent* (\$950.00 - \$405.00)

\$ 20.00: *fee for late payment of rent*

\$950.00: *December rent*

\$ 20.00: *fee for late payment of rent*

\$ 50.00: *filing fee*

Total: \$2,150.00

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 **\$2,150.00**. 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: December 6, 2011

Residential Tenancy Branch