

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution under the *Residential Tenancy Act* (the “*Act*”) by the landlord to obtain an order of possession for unpaid rent, a monetary order for unpaid rent, and to recover the cost of the filing fee.

Two agents for the landlord (the “agents”) and the tenant appeared at the teleconference hearing and gave affirmed testimony. During the hearing the parties were given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

The tenant confirmed that she received the evidence package from the landlord and had the opportunity to review the evidence prior to the hearing. I find the tenant was served in accordance with the *Act*.

Preliminary Matter

The agents testified that since filing their application the tenant made a payment to the landlord thereby reducing the amount of rent owed from \$1,638.00 to \$1,616.00. As a result, the agents reduced their claim from \$1,638.00 to \$1,616.00 for rent owed.

Issues to be Decided

- Is the landlord entitled to an order of possession for unpaid rent under the *Act*?
- Is the landlord entitled to a monetary order for unpaid rent under the *Act*?

Background and Evidence

The agents testified that the tenancy began on October 1, 2002. The tenant’s portion of subsidized rent was originally \$224.00 and was increased over the course of the tenancy to the current amount of \$328.00 per month which is due on the first day of each month. A security deposit was never requested of the tenant due to the subsidized rent.

The tenant confirmed that she was served with a 10 Day Notice for Unpaid Rent or Utilities (the “10 Day Notice”), in person on November 8, 2012. The landlord submitted

the 10 Day Notice in evidence. The effective vacancy date on the 10 Day Notice is listed as November 21, 2012.

The agents testified that \$1,616.00 in rent remains owing, which the tenant confirmed. The agent is seeking an order of possession, however, is agreeable to have it effective on January 31, 2013 at 1:00 p.m. to allow the tenant more time to find a new residence.

Analysis

Order of Possession - I find that the tenant failed to pay the rent or dispute the 10 Day Notice within 5 days after receiving the 10 Day Notice, and that the tenant is conclusively presumed pursuant to section 46 of the *Act*, to have accepted that the tenancy ends on the effective date of the 10 Day Notice. Accordingly, **I grant** the landlord an order of possession. This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

Claim for unpaid rent – The agent testified that \$1,616.00 remains unpaid which was confirmed by the tenant. Pursuant to section 26 of the *Act* a tenant must pay rent when it is due in accordance with the tenancy agreement. Based on the above, I find that the tenant has failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month. The tenant continues to occupy the unit. The landlord will not regain possession of the unit until after service of the order of possession and has therefore suffered a loss.

I find the landlord has met the burden of proof and has established a monetary claim of **\$1,616.00** comprised of rent owed.

As the landlord has succeeded with their application, **I grant** the landlord the recovery of the **\$50.00** filing fee.

As the tenant did not pay a security deposit, there is no security deposit to set off against the unpaid rent.

Conclusion

I find that the landlord has proven their claim and is, therefore, entitled to an order of possession effective **January 31, 2013 at 1:00 p.m.** This order must be served on the tenant and may be enforced in the Supreme Court of British Columbia.

I find that the landlord has established a total monetary claim of \$1,666.00 comprised of the filing fee and unpaid rent. I grant the landlord a monetary order under section 67 in the amount of **\$1,666.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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*.

Dated: January 08, 2013.