Dispute Resolution Services
Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for an order of possession, a monetary order for unpaid rent, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee. Two agents for the landlord participated in the hearing and gave affirmed testimony. Despite being personally served with the application for dispute resolution and notice of hearing on December 19, 2008, the tenant did not attend the hearing.

Issues to be Decided

- Whether the landlord is entitled to an order of possession

- Whether the landlord is entitled to a monetary order under the *Act*

Background and Evidence

Pursuant to a written residential tenancy agreement, the month-to-month tenancy began on October 1, 2008. Rent in the amount of $680.00 is payable in advance on the first day of each month, and a security deposit of $340.00 was paid at the start of tenancy.

The tenant failed to pay the full amount of rent due on December 1, 2008. Specifically, the tenant was in arrears in the amount of $355.00. Accordingly, the landlord served the tenant with a 10 day notice to end tenancy for unpaid rent. The tenant further failed to pay rent for the month of January 2009.

The landlord submitted into evidence a copy of the 10 day notice dated December 2, 2008 which was served by posting on the tenant's door that same day.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord's agents, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent. 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 which was December 12, 2008. I find therefore that the landlord is entitled to an order of possession.

As for the monetary order, I find the landlord has established a claim for $1,035.00. This is comprised of unpaid rent for December 2008 ($355.00) and unpaid rent for January 2009 ($680.00). The landlord is also entitled to recovery of the $50.00 filing fee for this application (total claim: $1,085.00). I order that the landlord retain the security deposit of $340.00 plus interest of $1.28 and I grant the landlord a monetary order under section 67 of the *Act* for the balance due of <u>$743.72</u> ($1,085.00 - $341.28).

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service upon 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.

I hereby grant the landlord a monetary order under section 67 of the *Act* for **$743.72**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: January 15, 2009   _____

                                                                        Dispute Resolution Officer