

Decision

Dispute Codes:

MNR

OPR

MNSD

FF

Introduction

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

This Dispute Resolution Hearing was convened to deal with an Application by the Landlord for an Order of Possession based on the Ten-Day Notice to End Tenancy for Unpaid Rent or Utilities dated December 9, 2008, a monetary order for rent owed and to recover the filing fee for the cost of this application.

The evidence on the case file was reviewed prior to the Hearing and this Application will proceed on its merits.

Issue(s) to be Decided

The Landlord sought an Order of Possession based on the Ten-Day Notice to End Tenancy for Unpaid Rent and Utilities and was also seeking a monetary order for rent arrears, plus reimbursement for the \$50.00 filing fee.

The issues to be determined based on the testimony and the evidence are:

- Whether the Landlord is entitled to an Order of Possession under section 55 of the Act, based on the Ten-Day Notice to End Tenancy ; and
- Whether the Landlord has proven that he is entitled to monetary compensation under section 67 for rental arrears or utilities owed.

Background and Evidence

The Landlord testified that he served the Tenant with the Notice to End Tenancy dated December 9, 2008 by registered mail, which was returned to the Landlord, as the Tenant did not pick it up. He testified that he served the Tenant with the Application for Dispute Resolution filed on December 11, 2008, together with his evidence package and the Notice to End Tenancy dated December 9, 2008 (which had been returned to him) on December 15, 2008, by sending the documents together in the same package via registered mail. He provided a tracking number for the registered mail. A search of the Canada Post data base indicates that the Notice to End Tenancy and the Application for Dispute Resolution were picked up by the Tenant on December 17, 2008.

The Tenant, although duly served, did not attend the Hearing.

The Landlord testified that the Tenant has failed to pay rent for the months of December, 2008 and January, 2009, and the Tenant is still occupying the rental unit. The total amount of rental arrears is \$1,700.00.

The Tenant paid a security deposit on September 1, 2006, in the amount of \$300.00. The monthly rent is \$850.00 and is due on the first of each month.

Analysis

I find that the Tenant was served on December 20, 2008, with the Notice to End Tenancy dated December 9, 2008. The effective date for the end of the tenancy was December 25, 2008. The Tenant did not apply to dispute the Notice and is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy

ended on the effective date of December 25, 2008. I therefore find that the Landlord is entitled to an Order of Possession.

I find that the Tenants were served with the Application for Dispute Resolution on December 20, 2008.

I find that the Landlord has established a total monetary claim of \$1,750.00, comprised of \$1,700.00 in rent arrears for the months of December, 2008 and January, 2009, and the \$50.00 application fee paid by the Landlord.

I order that the Landlord retain the security deposit of \$300.00, together with accrued interest in the amount of \$9.60 in partial satisfaction of the claim leaving a balance due to the Landlord of \$1,440.40.

Conclusion

Under section 55 of the Act, and based on the above facts I find that the Landlord is entitled to an Order of Possession and I hereby issue the order effective two days from service of the order. This order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Based on the testimony and evidence presented during these proceedings, I grant the Landlord a monetary order under section 67 of the Act for \$1,440.40. This order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

January 9, 2009
