



Dispute Resolution Services

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

Decision

Dispute Codes: OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application for an order of possession, a monetary order for unpaid rent, and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

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 term of tenancy was from June 15, 2006 to June 30, 2007. Thereafter, tenancy has continued on a month-to-month basis. Currently, rent in the amount of \$2,157.00 is payable on the fourth day of the month, and a security deposit of \$1,000.00 was collected on June 15, 2006.

The landlord issued a 10 day notice to end tenancy for unpaid rent dated July 3, 2009, which the tenant acknowledged receiving. A copy of the notice was submitted into evidence. Subsequently, the tenant paid no rent for any of the months of May, June, July or August 2009.

During the hearing the parties briefly exchanged views on some of the circumstances surrounding the dispute. It was agreed that the tenant would attempt to pay all rent currently overdue for May, June, July, August and September 2009 by the end of the

business day on Friday, September 11, 2009. The landlord undertook not to serve the order of possession in the meantime.

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 July 3, 2009. 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 is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim of \$8,728.00. This is comprised of \$8,628.00 in unpaid rent over four months (\$2,157.00 x 4: May, June, July, August), in addition to the \$100.00 filing fee. I therefore grant the landlord a monetary order under section 67 of the Act for \$8,728.00.

The landlord has not presently applied to retain the security deposit.

Conclusion

Pursuant to all of the above, 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.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$8,728.00**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: September 4, 2009

Dispute Resolution Officer