



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 application was brought by the landlord seeking an Order of Possession pursuant to a Notice to End Tenancy for unpaid rent dated August 3, 2008. The landlord also seeks a Monetary Order for the unpaid rent and filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

Despite being served with the Notice of Hearing sent by registered mail August 8, 2008, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issue(s) to be Decided

Section 46 of the *Act*, under which notice for unpaid rent is governed, provides a tenant with the opportunity to pay the rent or to make application to dispute the notice within five days of receiving it. If a tenant does neither, then the tenant is conclusively presumed to have accepted that the tenancy ends on the date stated by the notice.

Background and Evidence

This tenancy began April 1, 2007. Rent is \$740 per month and the landlord holds a security deposit of \$357.50 paid on March 27, 2007.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served when the tenant was short \$340 on the August rent. In the interim, the

tenant has not paid the September rent and when the landlord checked the rental suite shortly before the hearing, the tenant's furnishings were still there and he had not given notice nor returned the keys. Therefore, the landlord seeks loss of rent for September.

Analysis

As the tenant did not pay the rent shortfall or make application to dispute the notice within five days, the landlord requested, and I find he is entitled to, an Order of Possession effective two days from service of it on the tenant.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent, loss of rent and filing fee, and authorization to retain the security deposit in set off as follows;

August rent shortfall	\$ 340.00
September rent/loss of rent	740.00
Filing fee	<u>50.00</u>
Sub total	\$1,130.00
Less retained security deposit	- 357.50
Less interest (April 1, 2007 to date)	- <u>7.76</u>
TOTAL	\$ 764.74

Conclusion

Thus, this decision is accompanied by an Order of Possession effective two days from service of it on the tenant and a Monetary Order for \$764.74. These orders are enforceable through the Supreme Court of British Columbia and the Provincial Court of British Columbia respectively.

September 8, 2008
