



Dispute Resolution Services

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

DECISION

Dispute Codes: OPC, OPR, MNSD, MNR, FF

Introduction

This application was brought by the landlords seeking an Order of Possession pursuant to a Notice to End Tenancy for cause served on July 8, 2008 and a Notice to End Tenancy for unpaid rent served on August 17, 2008.

Despite being served with the Notice of Hearing by registered mail sent August 25, 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

As there are two Notices to End Tenancy, this decision will deal first with the latter and more pressing notice for the unpaid rent and whether, on the basis of that, the landlord is entitled to an Order of Possession and a Monetary Order for the unpaid and filing fee and authorization to retain the security deposit in set off. If those matters end the tenancy, the Notice to End for cause may be rendered moot.

Background and Evidence

This tenancy began November 1, 2007. Rent is \$1,250 per month and the landlord holds a security deposit of \$625 paid on November 1, 2007.

During the hearing, the landlord gave evidence that the tenant has not paid rent for August or September.

Analysis

Section 46 of the *Act* which deals with notice to end tenancy for unpaid rent provides that a tenant may pay the overdue rent or make application for dispute resolution within five days of receiving the notice. If the tenant does neither, they are presumed to have accepted that the tenancy ends on the date stated on the notice. In this matter, the tenant has not paid the rent and has not made application to dispute the notice.

Therefore, the landlord requested, and I find she 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 and filing fee for this proceeding and authorization to retain the security deposit in set off as follows:

August rent	\$1,250.00
September rent/loss of rent	1,250.00
Filing fee	50.00
Sub total	\$2,550.00
Less retained security deposit	- 625.00
Less interest (Nov. 1, 2007 to date)	- 8.38
TOTAL	\$1,916.32

Conclusion

Thus, the landlord's copy of this decision is accompanied by an Order of Possession effective two days from service of it on the tenant, and a Monetary Order for \$1,916.32.

The Order of Possession is enforceable through the Supreme Court of British Columbia and the Monetary Order is enforceable through the Provincial Court of British Columbia.

As to the Notice to End Tenancy for cause, while it is now rendered moot, I would note the somewhat unusual circumstances surrounding this tenancy.

During the hearing, the landlord gave evidence by way of a letter dated July 3, 2008 from the management company acting on behalf of the strata council that her tenant appears to have rental agreements on 15 rental units in the complex which he then sublets on short term rentals. She was advised that this was in breach of a local bylaw and section 34 of the *Act*. He landlord was instructed to evict the tenant on threat of the strata corporation initiating action under the *Strata Property Act* with potential costs to the landlord.

The landlord gave evidence that she had never authorized a sub tenancy. She said that on September 2, 2008, there had been an incident in which police had to force entry to the rental unit to secure medical assistance for an occupant, but that her several attempts to contact the occupants since have been futile.

September 22, 2009
