



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 10-day Notice to End Tenancy for unpaid rent served August 6, 2008. The landlord also served such notices on July 4, 2008, June 5, 2008 and May 5, 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.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and the effective date, and whether a Monetary Order is due, the amount, and if the filing fee and off setting security deposit should be included.

Background and Evidence

This tenancy began April 1, 2008. Rent is \$1,200 per month and the landlord holds a security deposit of \$600 paid on May 14, 2008.

During the hearing, the landlord gave uncontested evidence that the tenant is in arrears in rent by \$3,000.

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 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 and filing fee for this proceeding and authorization to retain the security deposit in set off as follows:

July rent shortfall	\$ 600.00
August rent	1,200.00
September rent	1,200.00
Filing fee	50.00
Sub total	\$3,050.00
Less retained security deposit	- 600.00
Less interest (June 3, 2008 to date)	- 3.27
TOTAL	\$2,446.73

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 \$2,446.73 for service on the tenant.

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 the tenant made promise that he would be able to make a substantial payment toward the overdue rent in the immediate future, the landlord requested that the Order of Possession be serviceable for a three month period in the event the repayment plan is not acceptable, does not materialize, or falters.

September 23, 2008
