



Dispute Resolution Services

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

DECISION

Dispute Codes: MNR MNSD OPR FF

Introduction

This application was brought by the landlord seeking an Order of Possession pursuant to a Notice to End Tenancy for unpaid rent served September 9, 2008. The landlord also sought a Monetary Order for the unpaid rent, and filing fee, and authorization to retain the security deposit in set off against the balance owed.

This hearing originally opened on October 20, 2008 but was rescheduled to October 24, 2008 due to illness of the Dispute Resolution Officer.

Despite being served with the Notice of Hearing sent by registered mail on September 19, 2008, the tenant did not call in to the number provided to enable her participation in to either of the telephone conference call hearings, although the landlord's representative gave assurance that she was aware of the rescheduling. Therefore, it proceeded in her absence.

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 February 22, 2008. Rent is \$450 per month and the landlord holds a security deposit of \$225 paid on February 22, 2008.

During the hearing, the landlord gave evidence that the notice to end tenancy had been served when the tenant failed to pay the rent for July (\$250), August (\$450) and September (\$450) 2008. In the interim, the tenant has not paid the October rent.

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 landlords requested, and I find they are entitled to, an Order of Possession effective two days from service of it on the tenant. I further find that the landlords are 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	\$250.00
August rent	450.00
September rent	450.00
October rent	450.00
Filing fee	<u>50.00</u>
Sub total	\$1,650.00
Less retained security deposit	- 225.00
Less interest (February 22, 2008 to date)	<u>- 2.27</u>
TOTAL	\$1,422.73

Conclusion

Thus, the landlords' 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 \$1,422.73 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.

Dated: October 24, 2008