



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 served in person on September 12, 2008. The landlord also sought a Monetary Order for the unpaid rent, and filing fee. In addition, as authorized by section 64(3)(c) of the *Act*, I permitted the landlord to amend his application to include permission to retain the security deposit in set off against the balance owed.

Despite being served with the Notice of Hearing in person on September 23, 2008, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. 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 August 1, 2008. Rent is \$800 per month and the landlord holds a security deposit of \$200 paid on August 3, 2008.

During the hearing, the landlord gave evidence that the notice to end tenancy had been served when the tenant did not pay the rent for September, 2008. That amount remained unpaid at the time of the hearing and the October rent had not been paid.

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:

September rent	\$ 800.00
October rent	800.00
Filing fee	<u>50.00</u>
Sub total	\$1,650.00
Less retained security deposit	- 200.00
Less interest (August 3, 2008 to date)	<u>- .66</u>
TOTAL	\$1,449.34

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 \$1,449.34 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.

October 22, 2008