



Dispute Resolution Services

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

Decision

Dispute Codes: MNR 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 17, 2008. The landlord also sought a Monetary Order for the unpaid rent, late fees and filing fee for this proceeding. The landlord did not request authorization to retain the security deposit in set off against the balance owed.

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 should be included.

Background and Evidence

This tenancy began July 15, 2008 under a fixed term rental agreement set to end on September 30, 2008. Rent is \$875 per month and the landlord holds a security deposit of \$437.50 paid on July 14, 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 September 2008. A payment made in September was applied to outstanding rent for August 2008.

At the time of the hearing, the tenant carried a rent shortfall for August of \$397.62 and had not paid rent for September or October of \$875 each. The landlord also seeks late fees of \$25 for each of the three months.

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, late fees and filing fee for this proceeding as follows:

August rent shortfall	\$397.62
September rent	875.00
October rent	875.00
Late fees for each of the three months (\$25 x 3)	75.00
Filing fee	<u>50.00</u>
TOTAL	\$2,272.62

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 \$2,272.62 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 31, 2008