

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 hearing dealt with an application by the landlord for an order of possession due to unpaid rent, a monetary order to recover rental arrears and inclusive of recovery of the filing fee associated with this application. Both the landlord and the tenant participated in today's hearing.

At the onset of the hearing the landlord offered an amendment to the application providing information that all rental arrears have now been paid, albeit late, and that the rent is up to date with the current month's total rent having been paid on December 3, 2008. The landlord testified that all the aforementioned rent was accepted only for use and occupancy and that the landlord still desires for the tenancy to end.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an order of possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on December 1, 2006. Rent in the amount of \$770 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$360. The tenant failed to pay all of rent in the month of November 2008 and on November 2, 2008 the landlord served the tenant with a notice to end tenancy for non-payment of rent. During the course of the hearing the tenant testified that the rent has always been paid late due to factors related to her income source. The landlord and tenant agreed with each other's

testimony that the tenancy will end on December 31, 2008 and the landlord requested an order of possession to reflect this agreement.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid.

Based on the above facts I find that the landlord is entitled to an order of possession.

The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

I grant an order of possession to the landlord effective December 31, 2008. The tenant must be served with this order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order that the landlord can retain the amount of \$50 from the security in satisfaction of the recovery of the filing fee paid under section 59.

Dated: December 4, 2008