



Dispute Resolution Services

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

DECISION

Dispute Codes: OPB, OPR, MNR, MNSD & FF

Introduction:

This hearing dealt with an application by the landlord seeking an Order of Possession due to the tenant's failure to vacate the rental unit after a mutual agreement to end the tenancy was signed. The landlord also seeks a monetary claim for non-payment of rent. Although the tenant was served with notice of this hearing and application by registered mail he did not attend the hearing. I deem the tenant as having been served in accordance with section 89 of the *Act* and proceeded with the hearing in his absence.

I note that there is a review hearing scheduled between the parties on January 8, 2009 on file #727792. This review hearing is to deal with a dispute between the parties respecting a one month Notice to End Tenancy for cause. I note that the evidence to be considered in this review hearing is the mutual agreement to end tenancy which is the evidence the landlord is relying upon for this hearing.

Issue to be Determined:

Is the landlord entitled to an Order of Possession based on the tenant's failure to comply with a mutual agreement to end the tenancy?

Background and Evidence:

The landlord submits that the tenant entered into an agreement to end the tenancy and vacate the rental unit effective December 1, 2008 in the letter dated November 17, 2008. The landlord also submits that the tenant has failed to pay the rent of \$835.00 for December 2008 and also requests to retain the tenant's security deposit plus interest in partial satisfaction of this claim.

Analysis:

The landlord submitted a copy of a letter dated November 17, 2008. This document is signed by the tenant and indicates that the tenant agrees to vacate the rental unit by December 1, 2008. The document also indicates that this agreement resolves the dispute between the parties on file #727792.

I accept that the tenant has not fulfilled this mutual agreement and went forward with the scheduled hearing on December 1, 2008. The landlord failed to appear for the reconvened hearing on December 1, 2008 and was granted a review hearing on the

basis of the evidence of the mutual agreement to end tenancy. I am also satisfied that the tenant has failed to pay his rent for December 2008 for the sum of \$835.00.

I grant the landlord's application for an Order of Possession effective **two (2) days** after it is served upon the tenant. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I also find that the landlord has established a total monetary claim of \$885.00 including the recovery of the \$50.00 filing fee paid for this application. I Order that the landlord may retain the tenant's security deposit plus interest of \$419.43 in partial satisfaction of this claim.

I grant the landlord a monetary Order for the remaining balance of **\$467.50**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion:

I have granted the landlord's application. I have determined the landlord is entitled to an Order of Possession based on the tenant's failure to comply with a mutual agreement to end the tenancy effective December 1, 2008.

Dated December 22, 2008.

Dispute Resolution Officer