

Dispute Resolution Services

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

Decision

Dispute Codes: MNDC MNR MNSD 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, and an order to retain the security deposit in partial satisfaction of the monetary claim. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on November 14, 2008 the tenant did not participate in the conference call hearing today.

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 October 15, 2008. Rent in the amount of \$745 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 \$372.50. The tenant failed to pay all the rent in the month of November, 2008. The landlord is claiming \$247 for rental arrears for November 2008 and \$70 for an unpaid Key deposit at the outset of the tenancy. The landlord served the tenant with a notice to end tenancy for non-payment of rent on November 3, 2008. The landlord's testimony is that the tenant still resides in the rental unit on this date and further failed to pay rent in and for the month of

December 2008. The landlord is seeking an order of possession and seeks to recover loss of revenue for the month of December 2008.

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. The tenant has not paid the outstanding rent and has not applied for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

Based on the above facts I find that the landlord is entitled to an order of possession. As for the monetary order, I find that the landlord has established a claim for \$247 in unpaid rent for November. The landlord is not entitled to claim \$70 for an unpaid deposit. The landlord is entitled to loss of revenue for one half (1/2) month for December 2008 in the amount of \$372.50 with leave to reapply for the remainder of the month. The landlord is also entitled to recovery of the \$50.00 filing fee for a total entitlement of claim in the amount of **\$669.50**.

Conclusion

I grant an order of possession to the landlord. 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 retain the deposit and interest of \$373.26 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$296.24. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: December 3, 2008