



Dispute Resolution Services

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

DECISION

Dispute Codes: OPR, MNR, MNSD and 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 December 2, 2008. The landlord also sought a Monetary Order for the unpaid rent and filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

Despite being served with the Notice of Hearing sent by registered mail on December 22, 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 a Monetary Order for the unpaid rent and related fees and authorization to retain the deposits in set off.

Background and Evidence

This tenancy began on or about February 1, 2008. Rent is \$1,100 per month and the landlord holds a security deposit of \$550.

During the hearing, the landlord gave evidence that the notice to end tenancy had been served when the tenant had failed to pay the rent for December 2008. In the interim, the tenant remains in the rental unit and has not paid rent for January 2009.

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 form 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:

December rent	\$1,100.00
January rent	1,100.00
Filing fee	50.00
Sub total	\$2,250.00
Less retained security deposit	- 550.00
Less interest (February 1, 2008 to date)	- 7.55
TOTAL	\$1,692.45

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 \$1,692.45 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.

January 22, 2009

Dispute Resolution Officer