



Dispute Resolution Services

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

DECISION

Dispute Codes: OPR, MNR and FF

Introduction

This application was brought by the landlord seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served December 2, 2008. The landlord also sought a Monetary Order for the unpaid rent, late fees 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, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

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 security deposit may be retained.

Background and Evidence

This tenancy began August 1, 2008 under a 12-month fixed term agreement. Rent is \$850 per month and the landlord holds a security deposit of \$425 and a pet damage deposit of \$200.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served when the tenant had not paid the rent for December 2008. In the interim, the tenant did pay the December rent but at the time of the hearing was in arrears for the January rent by \$585. The landlord, therefore, claims that amount, plus \$20 late fee, plus \$50 filing fee.

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 remains in arrears and has not made application to dispute the notice.

Therefore, the landlord requested, and I find he is entitled to, an Order of Possession in support of the Notice to End Tenancy to take effect at 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 fee and filing fee and authorization to retain the security deposit as follows:

January 2009 rent arrears	\$585.00
January late fee	20.00
Filing fee	50.00
Sub total	\$655.00
Less retained security deposit	- 425.00
Less interest (August 1, 2008 to January 31, 2009)	- 2.66
TOTAL	\$227.34

While there is a pet damage deposit of \$200, the landlord may only apply to retain it against damage caused by the pet.

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 \$227.34.

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 20, 2009

Dispute Resolution Officer