



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 10-day Notice to End Tenancy for unpaid rent served November 20, 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.

Despite being served with the Notice of Hearing by registered mail, 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 filing fee should be included.

Background and Evidence

This tenancy began, according to the landlord's recollection, on August 1, 2004. Rent is \$600 per month plus one-third of the utilities, approximating but greater than \$100 per month. The landlord holds a security deposit of \$300 paid on or about August 1, 2004.

During the hearing, the landlord gave evidence that the tenant did not pay rent or utilities for September, October, November or December of 2008.

He stated that the tenant's wife had moved out of the rental unit in August 2008 and the tenant and his daughter remained.

The landlord stated that the tenant's wife attended his home on November 28, 2008 and enquired as to her husband's whereabouts. The landlord was unable to make contact with the tenant and the tenant's wife returned later to advise that she had found her daughter alone and believed that her husband had fled.

The tenant has not been seen since and on December 28, 2008, the landlord deemed the rental unit to have been abandoned.

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 in support of the Notice to End Tenancy to take effect at 1 p.m. on January 15, 2009.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent, utilities and filing fee for this proceeding and authorization to retain the security deposit in set off as follows:

September rent plus utilities	\$700.00
October rent plus utilities	700.00
November rent plus utilities	700.00
December rent plus utilities	700.00
Filing fee	50.00
Sub total	\$2,850.00
Less retained security deposit	- 300.00
Less interest (August 1, 2004 to date)	- 10,62
TOTAL	\$2,539.38

Conclusion

Thus, the landlord's copy of this decision is accompanied by an Order of Possession effective at 1 p.m. on January 15, 2009 and a Monetary Order for \$2,539.38.

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 14, 2009

Dispute Resolution Officer