



Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: OPR, MNR, MNSD, & FF

Introduction:

This hearing dealt with an application by the landlords requesting an Order of Possession and a monetary claim due to non-payment of rent by the tenants. The landlord also seeks to retain the tenants' security deposit plus interest in partial satisfaction of this claim.

Although the tenants were served with notice of this hearing and application when it was posted to their door on December 11, 2008, they did not appear. I proceeded with the hearing in the tenants' absence being satisfied that the tenants' were served with notice of this proceeding pursuant to sections 88 and 89 of the *Act*.

Issues to be Determined:

Are the landlords entitled to an Order of Possession due to non-payment of rent by the tenants? Have the landlords established a monetary claim due to non-payment of rent?

Background and Evidence:

This tenancy began on November 1, 2008 for the monthly rent of \$750.00 and a security deposit of \$375.00 paid on October 22, 2008. The tenants failed to pay the full rent owed for December 2008 and were served with a 10 day Notice to End Tenancy on December 2, 2008.

The landlords submitted at this hearing that the tenants have failed to pay the outstanding rent and have failed to pay the rent for January 2009. The landlords also stated that the tenants have failed to pay their portion of the utilities as well; however, the landlords did not submit any evidence respecting utilities.

The landlords requested an immediate Order of Possession due to the tenants' failure to pay rent.

Analysis:

I accept the evidence of the landlords that the tenants were served with a 10 day Notice to End Tenancy. The tenants had five days to either pay the outstanding rent owed or to file an application to dispute the notice. Having failed to exercise either of these rights

the tenants are conclusively presumed to have accepted the end of the tenancy pursuant to section 46(5) of the *Act*.

On this basis I grant the landlords an Order of Possession effective **two (2) days** after it is served upon the tenants. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I am also satisfied that the landlords have established a monetary claim due to non-payment of rent for the sum of \$1,175.00 comprised of the outstanding rent for December 2008 of \$375.00, outstanding rent for January 2009 of \$750.00, plus the recovery of the \$50.00 filing fee paid for this application. From this sum I grant the landlords' request to retain the tenants' security deposit plus interest of \$376.09 in partial satisfaction of this claim.

I grant the landlords' a monetary Order for the remaining balance of **\$798.91**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion:

I grant the landlords' application for dispute resolution. The landlords are granted an Order of Possession and a monetary Order due to the tenants' breach of the tenancy agreement and *Act*.

Dated January 13, 2009.

Dispute Resolution Officer