



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 on December 31, 2008 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served in person on November 15, 2008 and December 1, 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 in person on January 1, 2009, 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 in set off.

Background and Evidence

This tenancy began August 1, 2008. Rent is \$850 per month and the landlord holds a security deposit of \$425.

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 November 2008. In the interim, the tenant has not vacated and has not paid rent for December or January.

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 two days from service of it upon 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:

| | |
|--|-------------------|
| November 2008 rent | \$ 850.00 |
| December 2008 rent | 850.00 |
| January 2009 rent | 850.00 |
| Filing fee | 50.00 |
| Sub total | \$2,600.00 |
| Less retained security deposit | - 425.00 |
| Less interest (August 1, 2008 to date) | - 2.66 |
| TOTAL | \$2,172.34 |

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 tenants and a Monetary Order for \$2,172.34.

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.

The landlord remains at liberty to make application for loss of rent and any damages as may be ascertained at the conclusion of the tenancy.

January 28, 2009

Dispute Resolution Officer