



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 the landlord's application for an order of possession, a monetary order for unpaid rent and utilities, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee. Both parties participated in the hearing and each gave affirmed testimony.

Issues to be decided

- Whether the landlord is entitled to an order of possession
- Whether the landlord is entitled to a monetary order under the *Act*

Background and Evidence

Based on the affirmed evidence given by both parties, the facts are as follows:

The tenancy began on November 01, 2008. Rent in the amount of \$800.00 is payable in advance on the first day of each month. A security deposit of \$400.00 was collected at the start of tenancy. The tenant failed to pay rent for the month of December 2008 and was served a ten day notice to end tenancy with an effective date of December 27, 2008. The tenant continues to occupy the rental unit and has not paid rent for January 2009. The landlord has applied for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$1650.00 which consists of rent for two months and the fee to file this application in the amount of \$50.00.

Analysis

Pursuant to section 63 of the *Act*, during the hearing the parties exchanged proposals and achieved a resolution of the dispute. Specifically, the parties agreed as follows that:

- The tenant will pay outstanding rent in the amount of \$1600.00 plus the rent for February 2009 in the amount of \$800.00 and the filing fee of \$50.00, for a total of \$2450.00 on or before February 03, 2009.
- A monetary order will be issued to the landlord in the amount of \$2450.00 payable on or before February 03, 2009.
- Upon payment of \$2450.00 on or before February 03, 2009, the landlord will allow the tenant to continue to occupy the rental unit up to February 28, 2009. The tenancy will not be re instated, the tenant will have use and occupancy only of the rental unit up till February 28, 2009.
- If the tenant fails to pay \$2450.00 by February 03, 2009, the landlord will serve the tenant with an order of possession effective two days after service on the tenant.
- An order of possession will be issued to landlord effective two days after service on the tenant.

The parties acknowledge that the above particulars are binding on both parties. The parties will exercise any additional goodwill and spirit of cooperation necessary in regard to the above undertakings, which might be required to achieve a positive end to the landlord – tenant relationship.

Conclusion

I hereby issue an order of possession in favor of the landlord effective two days after service on the tenant. In the event the tenant does not comply with the above terms, this order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I hereby grant the landlord a monetary order under section 67 of the *Act* for **\$2450.00** payable on or before February 03, 2009. If the tenant fails to comply with the above agreement, this order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

The landlord will apply to retain the security deposit if necessary, after the tenant moves out on February 28, 2009.

Dated January 28, 2009.

Dispute Resolution Officer