

Dispute Resolution Services

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

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession due to unpaid rent, a monetary order to recover rental arrears and inclusive of recovery of the filing fee associated with this application, and an order to retain the security deposit in partial satisfaction of the monetary claim. Despite having been served with the application for dispute resolution and notice of hearing by registered mail and deemed served in accordance with section 89 of the Residential Tenancy Act, the tenant did not participate in the conference call hearing. The tenant is still in possession of the rental unit as on this date.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an order of possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on November 1, 2003. The landlord's agent testified that rent in the amount of \$1335 is payable in advance on the first day of each month. At the outset of the tenancy on November 1, 2003 the landlord collected a security deposit from the tenant in the amount of \$582.50. The tenant failed to pay rent and late fee of \$25 in the month of December 2008, in the total amount of \$1360. On December 09, 2008 the

landlord served the tenant with a notice to end tenancy for non-payment of rent with an effective date of December 19, 2008. The tenant further failed to pay all of the rent owing in the month of January 2009. The landlord is claiming arrears in the total of **\$2720.**

The tenant paid \$1380 on January 02, 2009, and then paid \$500 on January 20, 2009 for a total paid by the tenant towards all rent arrears in the amount of **\$1880.**

The balance of the arrears to which the landlord is requesting is a monetary order in the amount of **\$840.**

The landlord is requesting an order of possession as soon as possible due to the time into the month.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid the outstanding rent and has not applied for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

Based on the above facts I find that the landlord is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim for **\$840.** The landlord is also entitled to recovery of the \$50.00 filing fee for a total claim of **\$890.**

Conclusion

I grant an order of possession to the landlord. The tenant must be served with this order of possession. 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 order that the landlord retain the deposit and interest of \$603.13 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of

\$236.87. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated January 27, 2009