



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 the landlord's application for an order of possession, a monetary order for unpaid rent and utilities, an order to retain the security deposit in partial satisfaction of the claim, and recovery of the filing fee for this application. The landlord participated in the hearing and gave affirmed testimony. Despite service of the application for dispute resolution and notice of hearing by way of posting on the tenant's door, the tenant did not appear at the hearing.

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

This hearing is further to a hearing held in respect to these same parties on October 29, 2008. That hearing was convened in response to the tenant's application for dispute resolution and a decision was issued on November 3, 2008.

The tenancy began on July 25, 2008 with monthly rent in the amount of \$1,200.00 due on the 25th day of each month. The parties also agreed that the tenant would pay 60% of the monthly utility bill for gas and electric. There is no written residential tenancy agreement and arrangements for payment of rent and utilities were made on the basis of verbal agreement. The tenant paid no security or pet deposit at the start of tenancy.

The tenant made only partial payment of \$825.00 for the first month's rent. Thereafter, the tenant made partial payment of \$550.00 for rent for the period August 25 to September 24, 2008. The tenant has since paid no additional rent up to the present and has made no payment whatsoever toward utilities.

The landlord served the tenant with a notice to end tenancy for unpaid rent and utilities on September 28, 2008.

Analysis

Based on the undisputed testimony of the landlord, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent and utilities. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the notice which was October 8, 2008. I also find that the tenant was served with the application for dispute resolution and notice of hearing. In the result, I find that the landlord is entitled to an order of possession which he has requested be effective January 24, 2009.

In consideration of rent already paid (as above) and a credit in favour of the tenant of \$150.00 for cleaning (period of October 25 – November 24, 2008 and pursuant to the previous decision dated November 8, 2008), I find the landlord has established a claim for \$7,048.57. This is comprised as follows:

July 25 – August 24, 2008

RENT: \$375.00	UTILITIES: \$138.07	TOTAL: \$513.07
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August 25 – September 24, 2008

RENT: \$650.00	UTILITIES: \$748.94	TOTAL: \$1,398.94
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September 25 – October 24, 2008

RENT: \$1,200.00	UTILITIES: \$185.76	TOTAL: \$1,385.76
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October 25 – November 24, 2008

RENT: \$1,050.00 UTILITIES: \$162.75 TOTAL: \$1,212.75

November 25 – December 24, 2008

RENT: \$1,200.00 UTILITIES: \$138.05 TOTAL: \$1,338.05

December 25, 2008 – January 24, 2009

RENT: \$1,200.00 UTILITIES: Presently unknown TOTAL: \$1,200.00

TOTAL RENT \$5,675.00 + TOTAL UTILITIES \$1,373.57 = GRAND TOTAL \$7,048.57.

The landlord is also entitled to recovery of the \$100.00 filing fee. As no security deposit was paid, I dismiss the landlord's claim to retain it in partial satisfaction of the claim. I therefore grant the landlord a monetary order under section 67 of the *Act* for \$7,148.57.

Conclusion

I hereby issue an order of possession in favour of the landlord effective on or before **1:00 pm, January 24, 2009**. 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 \$7,148.57. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: January 9, 2009

Dispute Resolution Officer