



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 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served December 5, 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.

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 filing fee should be included.

Background and Evidence

This tenancy began November 1, 2008 in a community housing rental unit. Rent is \$550 per month and the landlord holds \$100 of a security deposit. The tenant had not paid an additional \$175 on the security deposit which was required under the rental agreement.

At the time of the hearing, the tenant had not paid rent for December 2008 or January 2009.

The landlord gave evidence that the tenant had vacated approximately one week before the hearing, but as she had left behind a sewing machine and chairs, he requested an Order of Possession to secure his right to regain control of the rental unit.

The landlord also gave evidence of cause to end the tenancy; however, as the notice to end addressed only the unpaid rent and shortfall in the security deposit, this decision deals only with those claims.

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 at 1 p.m. on January 10, 2009.

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:

December rent	\$550.00
Filing fee	50.00
Subtotal	\$600.00
Less retained security deposit	- 100.00
Less interest (Nov. 1, 2008 to December 31, 2008)	- 0.25
TOTAL	\$ 499.75

Conclusion

Thus, the landlord's copy of this decision is accompanied by an Order of Possession effective at 1 p.m. on January 10, 2009 and a Monetary Order for \$499.75.

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 for January 2009 and for any damage to the rental unit as may be ascertained after he has regained possession of it.

January 8, 2009

Dispute Resolution Officer