



Dispute Resolution Services

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

DECISION

Dispute Codes: OPR, MNR 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 in person on December 4, 2008. The landlord also sought a Monetary Order for the unpaid rent, and filing fee for this proceeding.

Despite being served with the Notice of Hearing sent by registered mail, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their 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 filing fee should be included.

Background and Evidence

This tenancy began September 7, 2008. Rent is \$1,000 per month and while the tenants initially paid a security deposit, they asked the landlord to apply it to the rent for October 2008.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served when the tenants has failed to pay the rent for December 2008, their cheque having been returned NSF. In the interim, the tenants did not vacate on the notice, remain in the rental unit and have not paid rent for January 2009.

Analysis

Section 46 of the *Act* which deals with notice to end tenancy for unpaid rent provides that tenants may pay the overdue rent or make application for dispute resolution within five days of receiving the notice. If the tenants do neither, they are presumed to have accepted that the tenancy ends on the date stated on the notice. In this matter, the tenants have not paid the rent and have 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 on the tenants.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent/loss of rent, NSF fee and filing fee for this proceeding as follows:

December 2008 rent	\$1,000.00
December NSF fee	7.00
January 2009 rent/loss of rent	\$1,000.00
Filing fee	<u>50.00</u>
TOTAL	\$2,057.00

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 \$2,057.00.

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 any damages as may be ascertained at the conclusion of the tenancy.

January 12, 2009

Dispute Resolution Officer