



Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: MNR, MNDC, MNSD, & FF

Introduction:

This hearing was reconvened for today after the first hearing was adjourned at the tenant's request. Both parties were provided with the new notice of hearing on November 20, 2008. The application deals with the landlord's request for a monetary claim related to non-payment of rent, damage or loss under the *Act* and a request to retain the tenant's security deposit plus interest in partial satisfaction of the landlord's claim.

I received a faxed letter from the tenant's doctor on January 28, 2009 indicating that the tenant would be unable to attend today's hearing due to medical reasons. The landlord was not approached by the tenant respecting his second request to adjourn the hearing and was not provided a copy of the letter from the tenant's doctor.

Rule 6 in the *Dispute Resolution Rules of Procedure* provide that an adjournment will be granted if written consent to adjourn the hearing is received from both parties 3 days before the hearing is scheduled. If written consent from both parties is not received or consent cannot be obtained then the party seeking an adjournment must attend the scheduled hearing and request an adjournment at that time and present evidence which of the circumstances beyond their own control which are preventing the party from participating in the scheduled hearing. A party can also assign an agent to appear on their behalf to make this request.

I have decided to proceed with the scheduled hearing in the tenant's absence. The tenant has failed to follow the rules of procedure by failing to provide any particulars supporting that he cannot attend due to circumstances beyond his control, the tenant has failed to approach the landlord for mutual consent to adjourn the hearing and the tenant has failed to diligently pursue his request for an adjournment by sending in this letter two days before the scheduled hearing and failing to appear or have an agent appear to describe the circumstances by which he is unable to attend.

Pursuant to rule 6.6 I deny the tenant's claim that he is unable to attend and I have proceeded to hear the landlord's application in the tenant's absence.

Issues to be Determined:

Has the landlord established a monetary claim related to non-payment of rent and compensation due to loss due to a breach of the *Act* by the tenant?

Background and Evidence:

This tenancy on July 1, 2004 for the monthly rent of \$1,023.00 and a security deposit of \$465.00 paid on June 20, 2004. The rent at the end of the tenancy was \$1,130.00. The tenancy ended in May 2007 after the tenancy was ended due to the tenant's failure to pay rent.

The landlord received an Order of Possession under file #714006 after the tenant's application to set aside a 10 day Notice to End Tenancy was denied. The tenant requested a review of this decision; however, the review was denied on May 8, 2008. This decision also established that the tenant failed to pay rent for the sum of \$565.00.

The landlord seeks a monetary claim for the lost rent of \$565.00 and for costs related to hiring a bailiff to enforce the Order of Possession. The landlord provided a copy of the receipt for the bailiff services for the sum of \$2,298.24. The landlord also seeks the recovery of the filling fee for this application for a total monetary claim of \$2,913.24.

Analysis:

I accept the landlord's application. I am satisfied that the tenant is responsible for the costs of the bailiff services given his failure to comply with the Order of Possession granted to the landlord. I also accept that it was determined on file #714006 that the tenant failed to pay the rent of \$565.00. I also grant the landlord's request to recover the \$50.00 filling fee paid for this application for a total monetary claim of \$2,913.24.

From this sum I Order that the landlord may retain the tenant's security deposit plus interest of \$481.48 in partial satisfaction of this claim. I grant the landlord a monetary Order for the sum of **\$2,431.76**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion:

I have granted the landlord's application for a monetary claim due to breach of the tenancy agreement and *Act* by the tenant.

Dated January 29, 2009.

Dispute Resolution Officer