



Dispute Resolution Services

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

Decision

Dispute Codes:

OPR, MNR, FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution. It is apparent from information provided on the Application for Dispute Resolution that the Landlord is also seeking compensation for loss of revenue, so the Application was amended to include a request for a monetary Order for damage or loss under the Residential Tenancy Act (Act).

The Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the address noted on the Application, on January 12, 2009. A tracking number was provided. The Canada Post website shows the mail was picked up on January 14, 2009. These documents are deemed to have been served in accordance with section 89 of the *Act*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; to a monetary Order for loss of revenue; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 55, 67, and 72 of the *Act*.

Background and Evidence

The Landlord stated that this tenancy began on August 01, 2002 and that the Tenant is required to pay monthly rent of \$624.00.

The Landlord stated that a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of January 12, 2009, was personally served on the Tenant

on January 02, 2009. The Notice indicated that the Tenant is presumed to have accepted that the tenancy is ending and that the Tenant must move out of the rental by the date set out in the Notice unless the Tenant pays the outstanding rent or files an Application for Dispute Resolution within five days of the date they are deemed to have received the Notice.

The Landlord stated that the Tenant paid his outstanding rent on January 12, 2008 and was issued a receipt that indicated the rent was accepted for use and occupancy only. A copy of the receipt has been submitted in evidence. The Landlord stated that the Tenant has not paid rent for February of 2009.

Analysis

In the absence of evidence to the contrary, I find that the Tenant was served with a Notice to End Tenancy that required the Tenant to vacate the rental unit on January 12, 2009, pursuant to section 46 of the *Act*.

Section 46 of the *Act* stipulates that a tenant has five (5) days from the date of receiving the Notice to End Tenancy to either pay the outstanding rent or to file an Application for Dispute Resolution to dispute the Notice. In the circumstances before me I have no evidence that the Tenant exercised either of these rights and, pursuant to section 46(5) of the *Act*, I find that the Tenant accepted that the tenancy has ended.

As the Landlord has requested a monetary Order for rent for the entire month of February, I will grant the Landlord an Order of Possession that is effective on February 28, 2009.

In the absence of evidence to the contrary, I find that the Tenant has not paid rent in the amount of \$624.00 for February of 2009, and that the Landlord is entitled to compensation in that amount.

I find that the Landlord's application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

The Landlord has been granted an Order of Possession that is effective on 1:00 p.m. on February 28, 2009. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$674.00, which is comprised of \$624.00 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these

determinations I grant the Landlord a monetary Order for the amount of \$674.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

The Landlord has the right, pursuant to section 38(4) of the Act, to retain any amount of this monetary Order that remains unpaid at the end of the tenancy from the security deposit that was paid by the Tenant.

Date of Decision: February 10, 2009