



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 on March 3, 2009 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served in person on February 15, 2009. 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.

Despite having been served with the Notice of the Hearing in person on March 3, 2009, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and the effective date, a Monetary Order for the unpaid rent and filing fee for this proceeding, and authorization to retain the security deposit in set off.

Background and Evidence

This tenancy began on January 1, 2009. Rent is \$675 per month and the landlord holds a security deposit of \$337.50 paid in parts on January 1, 2009 and February 20, 2009.

During the hearing, the landlord gave evidence that the Notice to End Tenancy was served when the tenant had not paid the rent for February 2009 and carried a rent/security deposit shortfall from January of \$97.50. The tenant made a partial payment on February 20, 2009 but carried a rent shortfall of \$512.50 for the month.

In the interim, the tenant has paid no rent for March or April.

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 effective two days from service of it on the tenant.

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:

January rent shortfall	\$ 97.50
February rent shortfall	512.50
March rent	675.00
April rent	675.00
Filing fee	50.00
Sub total	\$2,010.00
Less retained security deposit	- 337.50
Less interest (April 1, 1999 to date)	- 0.00
TOTAL	\$1,672.50

Conclusion

Thus, the landlords' copy of this decision is accompanied by an Order of Possession effective two days from service of it on the tenant and a Monetary Order for \$1,672.50.

The Order of Possession is enforceable through the Supreme Court of British Columbia, and the Monetary Order is enforceable through Provincial Court of British Columbia.

April 27, 2009

Dispute Resolution Officer