



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 on January 6, 2009. The landlord also sought a Monetary Order for the unpaid rent and utilities and filing fee for this proceeding. In addition, I exercised my discretion under section 64(3)(c) of the *Act* to permit the landlord to amend her application to request authorization to retain the security deposit in set off against the balance owed.

At the commencement of the hearing, the landlord gave evidence that the tenant had moved out of the rental unit on February 20, 2009 and the Order of Possession was no longer necessary.

Despite being served with the Notice of Hearing served in person on January 18, 2009, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to a Monetary Order for the unpaid rent, utilities and filing fee and authorization to retain the security deposit in set off.

Background and Evidence

This tenancy began October 1, 2008 under a two-month fixed term rental agreement. Rent was \$800 per month and the landlord holds a security deposit of \$400 paid on or about October 1, 2008.

This tenancy was the subject of a hearing on January 5, 2009 under a similar application. The Order of Possession was denied because the landlord had accepted rent subsequent to the notice to end without issuing a receipt noting, "for use and occupancy only," thus reinstating the tenancy. The landlord was awarded a Monetary Order for \$400 and that order remains in effect.

In the present application, notice was served when the tenant failed to pay the rent for January, 2009, and in the interim, she has not paid the rent for February, 2009.

Analysis

I find that the landlord is entitled to a monetary order for the unpaid rent for January and rent and loss of rent for February. However, as the landlord has provided no evidence of the amount owed for utilities, I decline to make an award on that claim.

I further find that the landlord is entitled to recover the filing fee for this proceeding from the tenant and to retain the security deposit and interest in set off against the balance.

Therefore, I find that the tenant owes the landlord an amount calculated as follows:

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January rent	\$800.00
February rent/loss of rent	800.00
Filing fee	<u>50.00</u>
Sub total	\$1,650.00
Less retained security deposit	- 400.00
Less interest (October 1, 2008 to date)	- <u>1.51</u>
TOTAL	\$1,248.49

Conclusion

Thus, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$1,248.49, for service on the tenant..

February 23, 2009

Dispute Resolution Officer