



Dispute Resolution Services

Residential Tenancy Branch
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 Notice to End Tenancy for unpaid rent served by posting of January 2, 2009. The landlord also sought a Monetary Order for the unpaid rent, late fee and filing fee for this proceeding. In addition, I exercised the discretion granted under section 64(3)(c) to permit the landlord to amend her application to request authorization to retain the security deposit in set off against any balance owed.

Despite being served with the Notice of Hearing sent by registered mail on February 4, 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 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 July 28, 2006. Rent is \$1,189 per month and the landlord holds a security deposit of \$550 paid on July 25, 2006.

During the hearing, the landlord gave evidence that the notice to end tenancy had been served when the tenant failed to pay the rent for January 2009. In the interim, the tenant has not paid the rent for February 2009.

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 she 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	\$1,189.00
February rent	1,189.00
Filing fee	50.00
Sub total	\$2,428.00
Less retained security deposit	- 550.00
Less interest (February 16, 2004 to date)	- 17.88
TOTAL	\$1,860.12

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 tenant, and a Monetary Order for \$1,860.12 for service on the tenant.

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.

February 26, 2009.

Dispute Resolution Officer