



Dispute Resolution Services

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

Decision

Dispute Codes: OPR, MNR, MNSD, FF

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and a Monetary Order for Unpaid Rent, as well as to recover the filing fee for this proceeding. The Landlord also applied to keep all or part of a security deposit. At the outset of the hearing the Landlord abandoned his application for an Order of Possession.

Issue(s) to be Decided

1. Are there arrears of rent and if so, how much?
2. Is the Landlord entitled to keep all or part of the Tenants' security deposit?

Background and Evidence

This month to month tenancy started approximately 3 years ago and ended on February 9, 2009 when the Tenant moved out. Rent is \$800.00 per month payable on the 1st day of each month. The Tenant paid a security deposit of \$375.00 at the beginning of the tenancy. The Landlord said the Tenant did not pay his December 2008 rent in full and as a result, the Landlord served the Tenant in person with 10 Day Notice to End Tenancy for Unpaid Rent and Utilities on December 29, 2008. The Landlord said the Tenant has not paid any amounts since being served with the Notice and is now in arrears of rent for January and February, 2009.

The Tenant admitted that he had arrears of rent for December of \$400.00, for January, 2009 of \$800.00 and has not paid rent for February, 2009. The Tenant said he had an agreement with the Landlord that in exchange for leaving his refrigerator and stove at the rental unit, the Landlord would take \$700.00 off of his rent arrears. The Landlord agreed that this was the case.

Analysis

I find that the Landlord is entitled to recover unpaid rent for December, 2008 of \$400.00, for January, 2009 of \$800.00 and a loss of rental income for the period, February 1 –

12, 2009. Should the Landlord be unable to re-rent the rental unit for the balance of February, 2009, the Landlord may re-apply for loss or rental income for that period as well. The Landlord is also entitled to recover the \$50.00 filing fee for this proceeding. I order the Landlord pursuant to s. 38(4) of the Act to keep the Tenants' security deposit plus accrued interest in partial payment of the rent arrears. The Landlord will receive a monetary order for the balance owing as follows:

| | |
|--|-------------------|
| December, 2008 unpaid rent: | \$400.00 |
| January, 2009 unpaid rent: | \$800.00 |
| Loss of rental income to February 12, 2009: | \$342.86 |
| Filing fee: | <u>\$50.00</u> |
| Subtotal: | \$1,592.86 |
| Less: Security deposit: | (\$375.00) |
| Accrued interest: | (\$13.12) |
| Deduction for appliances: | <u>(\$700.00)</u> |
| Balance owing: | \$504.74 |

Conclusion

A Monetary Order in the amount of **\$504.74** has been issued to the Landlord and a copy of the Order must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order of that court.