



Dispute Resolution Services

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

DECISION

Dispute Codes: OPR, MNR, 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 in person on January 8, 2009. The landlord also sought a Monetary Order for the unpaid rent and filing fee for this proceeding.

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 November 1, 2007. Rent is \$586 per month and there is no security deposit.

During the hearing, the landlord gave evidence that the notice to end tenancy had been served when the tenants had failed to pay an accumulated rent shortfall from November of 2008 for \$335.

The landlord gave evidence that payment of \$303 had been paid on January 19, 2009.

By letter of January 20, 2009, the landlord provided the tenants with a statement of arrears and advised that any further payments from them would be accepted “for use and occupancy only,” indicating that the landlord did not wish or intend to reinstate the tenancy.

At the time of the hearing, the tenants still carried a rent shortfall of \$16.

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 tenants made only partial payment beyond the five days from service of the notice. In addition, they have still not fully eliminated the arrears.

Therefore, the landlord requested, and I find she is entitled to, an Order of Possession effective at 1 p.m. on March 20, 2009.

Given the small amount of the arrears, the landlord withdrew her request for a Monetary Order. However, as I had overlooked the landlord's request to recover the filing fee for this proceeding, I am issuing a Monetary Order for the rent arrears and filing fee combined for a total of \$66.

Conclusion

Thus, the landlord's copy of this decision is accompanied by an Order of Possession effective at 1 p.m. on March 20, 2009 and a Monetary Order for \$66.00 for service on the tenants.

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 27, 2009

Dispute Resolution Officer