

Dispute Resolution Services

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

DECISION

Dispute Codes:

OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession due to unpaid rent, a monetary order to recover rental arrears and inclusive of recovery of the filing fee associated with this application, and an order to retain the security deposit in partial satisfaction of the monetary claim. Despite having been served with the application for dispute resolution and notice of hearing by personal service on January 26, 2009 the tenant did not participate in the conference call hearing.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an order of possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on August 06, 2007. Rent in the amount of \$1135 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$550. The tenant failed to pay rent in the month of January 2009 so the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant paid all rental arrears pertaining to the month of January and \$40 toward February rent. The tenant was issued a receipt for 'use and occupancy only'. The tenant further failed to pay rent in the month of February and March 2009. The landlord's application claim is for rent for February rent of \$1095

plus \$25 late fee, rent for March of \$1135 plus \$25 late fee, and an Order of Possession effective 2 days from service.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid the outstanding rent and has not applied for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

Based on the above facts I find that the landlord is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim for rent arrears for February, one half (1/2) month's rent for March – with leave to reapply for the remainder of March, if necessary; and, a total of 2 late fees. The landlord is also entitled to recovery of the \$50.00 filing fee for an entitlement claim total of **\$1762.50**.

Conclusion

I grant an order of possession to the landlord. The tenant must be served with this order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order that the landlord retain the deposit and interest of **\$561.65** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$1200.85**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated March 10, 2009