

Dispute Resolution Services

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

DECISION

Dispute Codes:

OPR, MNR, MNSDFF

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. Both the tenant and the landlord participated in today's 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 October 1, 2006. Rent in the amount of \$650 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 \$180. There is no written tenancy agreement associated with this tenancy; however, the tenant appearing today agrees there are two (2) individuals in this tenancy from the beginning of the tenancy, and that the rent for the rental unit has been \$650 per month from the outset. The tenants have failed to pay all the rent since January 2008, having only paid \$375 per month since January 2008. On January 31, 2009 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenants further failed to pay rent in the month of February and March 2009. The landlord's claim is for an order of possession effective as soon as possible. He also seeks a monetary order for the balance of the rent for the past 15 months in the amount of \$275 per month x 15 months for a total claim of \$4125, and recovery of the filing fee of \$50.

The tenant appearing at today's hearing does not dispute that a portion of the rent has not been paid for the past 15 months.

Analysis

Based on the testimony of the landlord and the tenant 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 **\$4125** in unpaid rent. The landlord is also entitled to recovery of the **\$50** filing fee for a total entitlement of **\$4175**.

Conclusion

I grant an order of possession to the landlord effective not later than **two (2) days** after service of the order upon the tenant. 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 accrued interest of **\$185.69** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$3989.31**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated March 27, 2009