

Dispute Resolution Services

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

DECISION

Dispute Codes:

OPR, MNR, 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. Despite having been served with the application for dispute resolution and notice of hearing by personal service on January 3, 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 or near June 01, 1997. The current landlords are not sure of the tenancy's precise start date as they acquired the property several years into the tenancy and there has not been a new tenancy agreement since the outset. Rent in the amount of \$570 is payable in advance on the first day of each month. The tenant failed to pay all the rent due for the month of November 2008, accruing arrears of \$150. The tenant paid rent for December, 2008, but failed to pay rent for the month of January 2009.

On January 3, 2009 the landlord served the tenant with a notice to end tenancy for non-payment of rent, stipulating in the Ten(10) Day Notice to end that, on the tenant's promise to pay January and February rent by January 28, 2009 the effective date of the Notice was extended to 25 days, "instead of 10". Although the effective date is not

stipulated in the Notice, the explanatory note in the Notice makes it clear the effective date is 25 days after January 3, 2009, or January 28, 2009. The tenant further failed to pay rent in the month of February and for March 2009. The landlord seeks an order of possession as soon as possible, and only seeks one half (1 / 2) month's rent for March 2009.

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 \$1575 in unpaid rent. The landlord is also entitled to recovery of the \$50 filing fee. The total monetary entitlement claim is as follows:

Arrears from November 2008	150
Rent for January 2009	570
Rent for February 2009	570
Rent for March (1 / 2)	285
Filing Fee	50
Total entitlement claim	1625

Conclusion

I grant an order of possession to the landlord effective **2 days** after service. 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 grant the landlord an order under section 67 for **\$1625**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated March 12, 2009