



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes: OPR, MNR, MNSD and FF

Introduction

This application was brought by the landlord seeking an Order of Possession pursuant to a Notice to End Tenancy for unpaid rent served by posting on the tenant's door on December 28, 2008. The landlord also sought a Monetary Order for the unpaid rent and filing fee for this proceeding.

In addition, I exercised the discretion granted by section 64(3)(c) of the *Act* to permit the landlord to amend her application to request authorization to retain the security deposit in set off against the balance owed.

The landlord had also served a Notice to End tenancy for cause, repeated late payment of rent, but this decision will only deal with the Notice for unpaid rent unless that that part of the application is dismissed.

Despite being served with the Notice of Hearing sent by registered mail on January 23, 2009, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

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 August 1, 2008. Rent is \$600 per month and the landlord holds a security deposit of \$300 paid on July 26, 2008.

During the hearing, the landlord gave evidence that the notice to end tenancy had been served when the tenant failed to pay the rent for December 2008. In the interim, the tenant has not paid rent for January, February or March of 2009.

Therefore, the landlord asks for a Monetary Order including the four months rent and a late fee of \$25 for each of those months as agreed in clause 10 of the rental agreement.

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 tenant did not pay the rent or make application to dispute the notice within five days.

Accordingly, the landlord requested, and I find she is entitled to, an Order of Possession effective two days from service of it on the tenant. I further find that the landlord is entitled to a Monetary Order for the unpaid rent, late fees and filing fee for this proceeding and authorization to retain the security deposit in set off as follows:

December rent	\$ 600.00
January rent	600.00
February rent	600.00
March rent	600.00
Late fees (4 x \$25)	<u>100.00</u>
Sub total	\$2,500.00
Less retained security deposit	- 300.00
Less interest (Aug. 1, 2008 to date)	<u>- 1.88</u>
TOTAL	\$2,198.12

Conclusion

Thus, the landlord's copy of this decision is accompanied by an Order of Possession effective two days from service of it on the tenant, and a Monetary Order for \$2,198.12 for service on the tenant.

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.

March 18, 2009.

Dispute Resolution Officer