



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 10-day Notice to End Tenancy for unpaid rent served on February 5, 2009. The landlord also sought a Monetary Order for the unpaid rent and filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

Despite being served with the Notice of Hearing posted on February 12, 2009, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

This matter was originally scheduled to be dealt with as a direct request without hearing, but was adjourned to the present hearing as the landlord had not provided sufficient proof of service of the Notice to End Tenancy.

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 a Monetary Order for rent and filing fee and whether the security deposit may be retained in set off.

Background and Evidence

This tenancy began February 1, 2009. Rent is \$780 per month and the landlord holds a security deposit of \$390 paid on January 31, 2009.

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 February 2009, the first month of the tenancy.

The tenant eventually paid on February 13, 2009 but that was beyond the five days within which payment would have nullified the notice, and the landlord issued a receipt “for use and occupancy only” demonstrating that he did not wish or intend to renew the tenancy.

In the interim, the tenant has not paid the March rent. The landlord stated that the tenant has not been seen since the beginning of March and she had given her key to a male person not known to the landlord.

Analysis

The landlord requested, and I find he is entitled to, an Order of Possession effective two days from service and effective against the tenant and all other occupants.

I further find that the landlord is entitled to a Monetary Order for unpaid rent, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off as follows:

March rent	\$780.00
Filing fee	<u>50.00</u>
Sub total	\$830.00
Less retained security deposit	- 390.00
Less interest (January 31, 2009 to date)	- <u>.00</u>
TOTAL	\$440.00

Conclusion

Thus, the landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, effective two days from service of it on the tenant and a Monetary Order, enforceable through the Provincial Court of British Columbia, for \$440 for service on the tenant.

March 18, 2009.

Dispute Resolution Officer