



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 in person on February 2, 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.

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 the unpaid rent and filing fee and authorization to retain the security deposit in set off.

Background and Evidence

This tenancy began May 1, 2004. Rent is \$710 per month and the landlord holds a security deposit of \$355 paid on or about March 15, 2004.

During the hearing, the landlord gave uncontested evidence that the notice to end tenancy had been served when the tenant had a rent shortfall of \$510 for December 2008, and had paid no rent for January or February of 2009. In the interim, the tenant had not paid the rent for March and remained in the rental unit.

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 has not paid the rent and has not made application to dispute the notice.

Therefore, 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 and filing fee for this proceeding and authorization to retain the security deposit in set off as follows:

December rent shortfall	\$ 510.00
January rent	710.00
February rent	710.00
March rent	710.00
Filing fee	50.00
Sub total	\$2,690.00
Less retained security deposit	- 355.00
Less interest (March 15, 2004 to date)	- 12.58
TOTAL	\$2,322.42

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 \$2,322.42 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 30, 2009.

Dispute Resolution Officer