



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 sent by registered mail on February 2, 2009.

The landlord also sought a Monetary Order for the unpaid rent, NSF fee and filing fee for this proceeding and authorization to retain the security and pet damage deposits in set off against the balance.

Despite being served with the Notice of Hearing sent by registered mail on February 16, 2009, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their 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 a Monetary Order for rent the unpaid rent, NSF fee and filing fee and authorization to retain the security and pet damage deposits.

Background and Evidence

This tenancy began November 1, 2008 under a 12 month fixed term agreement. Rent is \$1,785 per month and the landlord holds a security deposit of \$892.50 and a pet damage deposit of \$800 paid on or about October 31, 2008.

During the hearing, the landlord gave evidence that the notice to end tenancy had been served when the tenants owed an NSF fee from November 2008, had a rent shortfall of \$285 for December 2008, and had paid none of the \$1,785 rent for January or February of 2009. In the interim, the tenants have 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 tenants have not paid the rent and have 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, pursuant to section 72(2)(b) of the *Act*, authorization to retain the security and pet damage deposits in set off as follows:

November NSF fee	\$ 25.00
December rent shortfall	285.00
January rent	1,785.00
February rent	1,785.00
March rent	1,785.00
Filing fee	50.00
Sub total	\$5,715.00
Less retained security deposit	- 892.50
Less pet damage deposit	- 800.00
Less interest (Oct 31, 2008 to date on \$1,692.50)	- 4.23
TOTAL	\$4,018.27

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 \$4,018.27 for service on the tenants.

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.

The landlord remains at liberty to make application for such damages and loss of rent as may be ascertained at the end of the tenancy.

March 31, 2009.

Dispute Resolution Officer