



Dispute Resolution Services

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

DECISION

Dispute Codes: OPR, MNR, MNDC 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 January 16, 2009. The landlord also sought a Monetary Order for the unpaid rent/loss of rent and filing fee for this proceeding, and authorization to retain the security deposit in set off against the balance owed.

At the commencement of the hearing, the landlord gave evidence that the tenants moved out of the rental unit on February 8, 2009 without giving notice or providing a forwarding address. Therefore, she withdrew her request for an Order of Possession.

Despite being served with the Notice of Hearing sent by registered mail on January 27, 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 a Monetary Order and the amount.

Background and Evidence

This tenancy began July 1, 2008 as a fixed term tenancy set to end on June 30, 2009. Rent was \$900 per month and there is no security deposit.

During the hearing, the landlord gave evidence that the Notice to End Tenancy was served when the tenants had not paid the rent for October of 2008 and January 2009 and had a rent shortfall of \$120 for December 2008. In the interim, the tenants had not paid for February 2009 and the landlord seeks loss of rent for the balance of February and March 2009.

Analysis

Section 7 of the *Act* states that if a tenant or a landlord fail to comply the legislation or the tenancy agreement, the non-complying party must compensate the other for any loss that results from the non-compliance.

In this instance, the tenants have not paid a substantial amount of rent, and I accept the landlord's evidence that she has advertised and attempted to find new tenants, and the tenants are responsible for her loss of rent for February and March.

Therefore, I find that the landlord is entitled to a Monetary Order, including recovery of her filing fee for this proceeding, calculated as follows:

October rent	\$900.00
December rent shortfall	120.00
January rent	900.00
February rent	900.00
March rent	900.00
Filing fee	50.00
TOTAL	\$3,770.00

Conclusion

Thus, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for \$3,770 for service on the tenants.

March 10, 2009

Dispute Resolution Officer