



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes: OPR, MNR 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 in person on January 7, 2009. The landlord also sought a Monetary Order for the unpaid rent and filing fee for this proceeding but did not request authorization to retain the security deposit in set off.

Despite being served with the Notice of Hearing sent by registered mail on January 22, 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.

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 October 1, 2008 under a six-month fixed-term agreement. Rent is \$900 per month and the landlord holds a security deposit of \$450 paid on September 30, 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 January 2009. It was paid with a \$25 late fee on January 20, 2009 and the landlord issued a receipt for use and occupancy only.

February rent was paid on February 6, 2009 and receipted for use and occupancy only and, at the time of the hearing, the March rent remained unpaid.

The landlord also submitted a copy of a letter to the tenant dated November 7, 2008 cautioning that rent had to be paid in full on or before the first day of the month.

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 paid the rent beyond the five day period and she 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, late fee and filing fee for this proceeding as follows:

March rent	\$900.00
Late fee	25.00
Filing fee	50.00
TOTAL	\$975.00

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 \$975.00 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 3, 2009.

Dispute Resolution Officer