



Dispute Resolution Services

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

Decision

Dispute Codes: OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application for an order of possession, a monetary order for unpaid rent and recovery of the filing fee for this application. Both parties participated in the hearing and each gave affirmed testimony.

Issues to be Decided

- Whether the landlord is entitled to an order of possession
- Whether the landlord is entitled to a monetary order under the *Act*

Background and Evidence

Pursuant to a written residential tenancy agreement, the month-to-month tenancy commenced on September 12, 1999. Rent in the amount of \$260.00 is payable in advance on the first day of each month.

The tenant is still \$40.00 in arrears with rent for the month of March 2008.

Subsequently, the tenant has not paid rent for any of the twelve (12) months from April 2008 to March 2009 (inclusive). The total amount of rent currently outstanding is therefore \$3,160.00 [\$40.00 + (12 x \$260.00)]. Further, the landlord claims entitlement to the \$25.00 fee for late payment of rent assessed for a total of thirteen (13) months in the amount of \$325.00.

The landlord submitted into evidence a copy of the 10 day notice to end tenancy for unpaid rent dated January 8, 2009 which was served in person on the tenant that same day.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 39(5) of the *Act* to have accepted that the tenancy ended on the effective date of the notice which was January 18, 2009. I therefore find that the landlord is entitled to an order of possession.

As for the monetary order, I find the landlord has established a claim for \$3,535.00. This is comprised of \$3,160.00 in unpaid rent, \$325.00 in fees for late payment of rent, in addition to the \$50.00 filing fee for this application. I grant the landlord a monetary order under section 60 of the *Act* for \$3,535.00.

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service upon the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I hereby grant the landlord a monetary order under section 60 of the *Act* for **\$3,535.00**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: March 3, 2009

Dispute Resolution Officer