



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an Order of Possession and a monetary claim related to non-payment of rent by the tenant. Although the tenant was served with notice of this hearing by registered mail he did not attend the hearing. I consider the tenant to have been served pursuant to section 90(a) of the *Act*.

I amended the landlord's application to include the request to retain the tenant's security deposit plus interest against any monetary claim established.

Issues to be Decided

Is the landlord entitled to an Order of Possession related to non-payment of rent by the tenant? Has the landlord established a monetary claim due to the tenant's breach of the tenancy agreement?

Background and Evidence

This tenancy began February 27, 2008 for the monthly rent of \$630.00 and a security deposit of \$315.00 paid on February 6, 2008. The tenant was served with a 10 day Notice to End Tenancy on January 8, 2009 when it was posted on the door of the rental unit.

Since receiving the notice the tenant has failed to pay the rent for January, February and March 2009. The landlord requests an Order of Possession and a monetary claim for the loss of three months rent.

Analysis

The tenant had five days from receiving the 10 day Notice to End Tenancy to either pay the rent owed or to file an application to dispute the notice. Having failed to exercise either of these rights the tenant is conclusively presumed to have accepted the end of the tenancy pursuant to section 46(5) of the *Act*.

On this basis I grant the landlord an Order of Possession effective **two (2) days** after it is served upon the tenant. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I also find that the landlord has established a total monetary claim for the sum of \$1,370.00 comprised of \$655.00 outstanding rent and late fee for January 2009, \$630.00 outstanding rent for February 2009 and the recovery of half a months rent for

March 2009, plus the recovery of the \$50.00 filling fee paid for this application. I find that the landlord still has an opportunity to mitigate any further loss of revenue for March 2009; however, the landlord may file a new application if further loss is experienced after March 15, 2009.

From this sum I Order that the landlord may retain the tenant's security deposit plus interest of \$319.26 in partial satisfaction of this claim. I grant the landlord a monetary Order for the remaining balance owed of **\$1,050.74**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord's application has been granted and an Order of Possession and a monetary Order issued due to the tenant's failure to pay rent.

Dated March 06, 2009.

Dispute Resolution Officer