



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

The parties gave affirmed evidence and this Hearing proceeded on its merits.

Issue(s) to be Decided

This is the Landlord’s application for an Order of Possession, a Monetary Order for unpaid rent, and to recover the filing fee from the Tenant.

- (1) Is the Landlord entitled to an Order of Possession?
- (2) Is the Landlord entitled to a monetary order?

Background and Evidence

Facts on which the parties agree:

The Landlord served the Tenant with the Notice to End Tenancy by leaving a copy at the Tenant’s residence with an adult who apparently resides with the Tenant on February 9, 2009, at 2:00 p.m.

The Landlord served the Tenant with a copy of the Application for Dispute Resolution and hearing package by leaving a copy at the Tenant’s residence with an adult who apparently resides with the Tenant on February 18, 2009, at 7:00 p.m.

The monthly rent is \$650.00, due on the first day of the month. The Tenant owes the Landlord \$95.00 for March, 2009, and \$650.00 for April, 2009. The Tenant is still

occupying the rental unit. The Tenant paid a security deposit in the amount of \$350.00 on September 25, 2008.

Analysis

The Tenant was properly served with the Notice to End Tenancy on February 9, 2009. Therefore the effective date of the end of Tenancy was February 19, 2009.

The Tenant did not pay the rental arrears or dispute the Notice to End Tenancy within 5 days of being served with the Notice to End Tenancy and therefore pursuant to Section 46(5) of the Act, the Tenant is conclusively presumed to have accepted that the tenancy ended effective February 19, 2009. The Landlord is entitled to an Order of Possession and I make that order.

The Tenant's agent agreed that the Tenant owes the Landlord \$95.00 for use and occupancy for the month of March, 2009 and \$650.00 for the month of April, 2009. The Landlord has established his monetary claim for loss of rent for March, 2009 in the amount of \$95.00 and loss of rent for April, 2009 in the amount of \$650.00. Pursuant to Section 72 of the Act, the Landlord may apply the security deposit, together with any accrued interest thereon, towards his monetary order.

The Landlord has been successful in his application and is entitled to recover the filing fee in the amount of \$50.00 from the Tenant.

I therefore make a monetary order in favour of the Landlord in the amount of \$468.69, calculated as follows:

Loss of Rent for March and April, 2009:	\$745.00
Recovery of filing fee	\$50.00
Less security deposit and interest of \$1.31	<u><\$326.31></u>
TOTAL	\$468.69

Conclusion

I grant the Landlord a monetary order for \$468.69 against the Tenant. This order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

Under Section 55 of the Act, and based on the above facts I find that the Landlord is entitled to an Order of Possession and I hereby issue the order effective two days from service of the order. This order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

April 8, 2009
