



Dispute Resolution Services

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

DECISION

Dispute Codes: OPR, MNR, MND, MNSD and FF

Introduction

This application was brought by the landlord on February 19, 2009 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served in person on February 12, 2009. The landlord also sought a Monetary Order for the unpaid rent and filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed.

Despite having been sent the Notice of the Hearing by registered mail on February 20, 2009, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and the effective date, and a Monetary Order for the unpaid rent and filing fee for this proceeding, and authorization to retain the security deposit in set off.

Background and Evidence

This tenancy began on or about April 1, 1999. Rent is \$940 per month and the landlord holds a security deposit of \$475 paid on or about April 1, 1999.

During the hearing, the landlord's agent gave evidence that the Notice to End Tenancy was served when the tenant had not paid the rent for January or February 2009. In the interim, he did not paid the rent for March or April and remained in the rental unit at the time of the hearing.

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 has not paid the rent and has not made application to dispute the notice.

Therefore, the landlord's agent 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 fees and filing fee for this proceeding and authorization to retain the security deposit in set off as follows:

January rent	\$ 940.00
February rent	940.00
March rent	940.00
April rent	940.00
Filing fee	50.00
Sub total	\$3,810.00
Less retained security deposit	- 475.00
Less interest (April 1, 1999 to date)	- 50.49
TOTAL	\$3,284.51

Conclusion

Thus, the landlords' 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 \$3,284.51.

The Order of Possession is enforceable through the Supreme Court of British Columbia, and the Monetary Order is enforceable through Provincial Court of British Columbia.

April 15, 2009

Dispute Resolution Officer