

Dispute Resolution Services

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

Decision

Dispute Codes: CNR, OPR, MNR, FF

Introduction

This hearing dealt with an application by the tenants for an order setting aside a notice to end this tenancy and a cross-application by the landlord for an order of possession and a monetary order. Despite having been personally served with the landlord's application for dispute resolution and notice of hearing on February 27, the tenants did not participate in the conference call hearing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession and monetary order?

Background and Evidence

The landlord's agent testified that the tenants were obligated to pay \$546.00 per month in rent. In January 2008 the tenants failed to pay \$273.00 of their rent. In February 2008 they paid no rent whatsoever. In February 2009 the rent was paid late. On February 17 the landlord personally served the tenants with a 10-day notice to end tenancy for unpaid rent. The tenants applied to dispute this notice.

The landlord seeks to recover \$819.00 in unpaid rent for January – February 2008, \$1,092.00 in loss of income for March – April 2009, \$100.00 in late payment fees for January – February 2008 and February – April 2009 inclusive and the \$50.00 filing fee paid to bring this application.

Analysis

As the tenants did not appear at the hearing to present their claim, their application to dispute the notice is dismissed.

I accept the landlord's undisputed testimony and find that the tenants were served with

a 10-day notice to end tenancy. I find that at the time the notice was given, the tenants were in arrears and I find that the landlord is entitled to an order of possession. The tenants must be served with the order of possession. Should the tenants 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.

As for the monetary order, I find that the landlord has established a claim for \$2,021.00 which represents \$819.00 in unpaid rent for January – February 2008, \$1,092.00 in loss of income for March and April 2009, \$60.00 in late payment fees for January – February 2008 and February 2009 pursuant to the terms of the tenancy agreement and recovery of the \$50.00 filling fee. The landlord's claim for late fees for March and April 2009 is dismissed as the tenancy ended on February 27 pursuant to the notice to end tenancy and any loss thereafter must be characterized loss of income for which no late fees are payable. I grant the landlord an order under section 67 for \$2,021.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary order for \$2,021.00.

Dated April 16, 2009.