



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's request for an Order of Possession for unpaid rent, a Monetary Order for unpaid rent, loss of rent, retention of the security deposit and recovery of the filing fee. Both parties appeared at the hearing and were provided the opportunity to be heard and to respond to the other party's submissions.

Issues(s) to be Decided

1. Whether the landlord is entitled to an Order of Possession for unpaid rent.
2. Whether the landlord is entitled to a Monetary Order for unpaid rent.
3. Retention of the security deposit.
4. Award of the filing fee.

Background and Evidence

The landlord provided undisputed testimony that the tenancy commenced in March 2003 and the tenant is required to pay rent of \$600.00 on the 1st day of every month. The tenant paid a \$300.00 security deposit on March 17, 2003. On February 8, 2009 the landlord posted a *10 Day Notice to End Tenancy for Unpaid Rent* (the Notice) on the tenant's door. The Notice indicates that rent of \$2,995.00 was outstanding as of February 1, 2009 and the Notice has an effective date of February 21, 2009. The tenant did not dispute the Notice and continues to reside in the rental unit.

In making the Application for Dispute Resolution, the landlord sought a Monetary Order for \$4,195.00; however, the landlord reduced the claim to \$3,995.00 during the hearing. The landlord testified that when she took over as manager in August 2008 the tenant was in arrears \$4,920.00 but the tenant paid \$3,600.00 of those arrears in August 2008



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leaving a balance of \$1,320.00. From September 2008 until May 1, 2009 the tenant has failed to pay \$2,675.00 of the rent payable, bringing the total arrears to \$3,995.00 as of today's date.

The tenant did not dispute the amount of the arrears and acknowledged that his landlord has been fair in dealing with him during consecutive financial crisis he has endured. The tenant request that he be permitted to remain in the rental unit until May 31, 2009 and promised to vacate the rental unit by May 31, 2009. The landlord consented to an Order of Possession effective May 31, 2009.

Analysis

Based on the evidence before me, the landlord has established an entitlement to a Monetary Order for \$3,995.00 for unpaid rent and loss of rent. In partial satisfaction of this award, the landlord is authorized to retain the tenant's security deposit and accrued interest of \$310.62. I also grant the landlord's request to recover the filing fee from the tenant. The landlord is provided a Monetary Order with this decision in the total amount of \$3,734.38 ($\$3,995.00 - \$310.62 + \50.00). The landlord must serve the tenant with the Monetary Order and may file it in Provincial Court (Small Claims) to enforce as an Order of that court.

Based on the mutual agreement between the parties, I find that this tenancy shall end on May 31, 2009 and the tenant must vacate the rental unit on or before that date. The landlord is provided an Order of Possession effective May 31, 2009 to serve upon the tenant. The landlord may file the Order of Possession in The Supreme Court of British Columbia to enforce as an Order of that court.



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Conclusion

The landlord is authorized to retain the tenant's security deposit and accrued interest in partial satisfaction of rent owed the landlord. The landlord is also provided a Monetary Order in the amount of \$3,734.38 to serve upon the tenant.

The tenancy ends May 31, 2009 and the landlord is provided an Order of Possession effective May 31, 2009.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 19, 2009.

Dispute Resolution Officer