



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing dealt with the landlord's request for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent. Both parties appeared at the hearing and were provided the opportunity to be heard.

The tenants name was incorrectly spelled on the Landlord's Application for Dispute Resolution. Both parties agreed to amend the application to reflect the tenant's correct name. This decision and the accompanying orders reflect the tenant's corrected name. The tenant appeared at the hearing for a brief after which time she was represented by an adult occupant that resides with her.

Issues(s) to be Decided

1. Has the landlord established an entitlement to an Order of Possession for unpaid rent?
2. Has the landlord established an entitlement to a Monetary Order and if so, the amount?

Background and Evidence

Upon hearing undisputed testimony of the parties, I make the following findings. The tenancy commenced approximately 13 years ago. The tenant is required to pay rent of \$676.00 on the 23rd day of every month. The landlord served a *10 Day Notice to End Tenancy for Unpaid Rent* (the Notice) upon an adult person that resides with the tenant on January 12, 2009. The Notice indicated that as of December 23, 2008 the tenant



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owed \$2,037.00. The tenant did not dispute the Notice within five days of receiving the Notice or pay the outstanding rent.

The tenant's representative acknowledged that the amount appearing on the Notice was accurate and that rent was also owed for the months of January, February, March and April 2009. The tenant had paid \$500.00 on January 21, 2009 and \$700.00 on April 29, 2009. As of April 23, 2009 the parties agreed that the tenant owed the landlord a total of \$4,217.00. The tenant has promised to pay the landlord \$1,000.00 per month with the overpayment of \$324.00 (\$1,000.00 - \$676.00) to be applied towards the rental arrears.

The landlord requested that an Order of Possession be provided to him in the event the tenant does not fulfill the promise to pay \$1,000.00 per month and every month thereafter until the rental arrears are repaid. The landlord was cautioned that the Order of Possession may not be enforceable in The Supreme Court of British Columbia if the Order of Possession is not served upon the tenant in a reasonable amount of time after its issuance. The landlord testified that he has no intention to enforce the Order of Possession if the tenant continues to pay \$1,000.00 per month until the arrears are settled.

Analysis

Where a tenant does not dispute a 10 Day Notice to End Tenancy or pay the outstanding rent within five days of receiving the Notice, the tenant is conclusively presumed to have accepted that the tenancy will end on the effective date appearing on the Notice.



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Upon review of the evidence before me, I am satisfied that the landlord is entitled to an Order of Possession. I provide the landlord with an Order of Possession effective TWO (2) DAYS after service of the Order upon the tenant. The Order of Possession must be served upon the tenant to be enforceable and it may be filed in The Supreme Court of British Columbia to be enforced as an Order of that court.

I am satisfied that the landlord is entitled a Monetary Order in the amount of \$4,217.00 for unpaid rent up to and including April 2009. The landlord must serve the Monetary Order upon the tenant and may file it in Provincial Court (Small Claims) to enforce as Orders of the court.

Conclusion

The landlord is provided with an Order of Possession effective two days after service upon the tenant.

The landlord is provided with a Monetary Order in the amount of \$4,217.00 for unpaid rent up to and including April 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 01, 2009.

Dispute Resolution Officer