



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes

OPR, MNR, MNSD, & FF

Introduction

This hearing dealt with an application by the landlord seeking an Order of Possession and a monetary claim related to non-payment of rent by the tenant. Although the tenant was served in person with notice of this application and hearing on March 20, 2008, she did not appear for the hearing. Being satisfied that the tenant has been served with notice of this hearing I proceeded with the hearing in the tenant's absence.

Issues to be Determined

Is the landlord entitled to a monetary claim due to non-payment of rent by the tenant? Is the landlord entitled to retain the tenant's security deposit plus interest in partial satisfaction of this claim?

Background and Evidence

This tenancy began on October 1, 2008 for the monthly rent of \$1,150.00 and a security deposit of \$575.00 paid on September 15, 2008. The tenancy was for a fixed term lease ending effective September 30, 2009.

The tenancy ended April 30, 2009 after the tenant failed to pay rent and abandoned the rental unit. The tenant was served with a 10 day Notice to End Tenancy due to non-payment of rent on March 2, 2009 when it was posted to the door of the rental unit. The tenant did not move out of the rental unit on the effective date of the notice or inform the landlord when she vacated at the end of April 2009.

The landlord seeks a monetary claim comprised of outstanding rent for March and April 2009 and loss of revenue for May 2009. The landlord also seeks late payment fees for March and April and to recover the filing fee paid for this application.

Analysis

I am satisfied that the tenant was served with the 10 day Notice to End Tenancy when it was posted to the door of the rental unit in accordance with section 88 of the *Act*. The tenant had five days to either pay the rent or to dispute the notice by filing an application for dispute resolution. Having failed to exercise either of these rights the tenant is conclusively presumed to have accepted the end of the tenancy pursuant to section 46(5) of the *Act*. The landlord no longer requires an Order of Possession as the tenant abandoned the rental unit.

I am satisfied that the tenant failed to pay the rent for March 2009 and over held the rental unit to April 30, 2009. I am also satisfied that the tenant has caused the landlord a loss of rental revenue for May 2009.

I grant the landlord's claim for the monetary claim for the sum of \$3,490.00. From this sum I Order that the landlord may retain the tenant's security deposit plus interest of \$577.55 in partial satisfaction of this claim. I grant the landlord a monetary Order for the remaining balance owed of **\$2,912.45**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord's application is granted. I have issued a monetary Order to the landlord due to the tenant's failure to pay rent.

Dated May 12, 2009.

Dispute Resolution Officer