



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 due to non-payment of rent by the tenant. Although the tenant was served with notice of this application and hearing by registered mail on April 23, 2009, he did not attend. Pursuant to section 90(a) of the *Act* I deem the tenant as having been served with notice of this proceeding and proceeded with the hearing in the tenant's absence.

Issues to be Determined

Is the landlord entitled to an Order of Possession based on non-payment of rent by the tenant? Has the landlord established a monetary claim related to non-payment of rent? 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 November 1, 2003 and the current monthly rent is \$1,335.00 per month. The tenant paid a security deposit of \$585.50 on October 20, 2003. In April 2009 the tenant failed to pay the rent owed on the 1st. On April 7, 2009 the landlord served the tenant with a 10 day Notice to End Tenancy which was posted on the door of the rental unit. Subsequently the tenant paid \$500.00 on April 29, 2009 but has failed to pay the rent owed effective May 1, 2009.

Analysis

The landlord's application is granted. I accept the evidence of the landlord that the tenant was served with a 10 day Notice to End Tenancy due to non-payment of rent. The tenant had five days from receiving the notice to either pay the outstanding owed or to file an application to dispute the notice. 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*.

On this basis I grant the landlord an Order of Possession effective **two (2) days** after it is served upon the tenant. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I also find based on the landlord's evidence that the tenant has failed to pay the rent owed for April and May 2009, except for a partial payment of \$500.00 on April 20th, 2009. This represents a loss of \$2,210.00 including \$40.00 of late payment of rent charges. I also find that the landlord is entitled to the recovery of the filing fee paid for this application in the sum of \$50.00. From this sum I Order that the landlord may retain the tenant's security deposit plus interest of \$603.12 in partial satisfaction of this claim.

I grant the landlord a monetary Order for the remaining balance owed of **\$1,656.88**. This Order may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Dated May 14, 2009.

Dispute Resolution Officer