

Dispute Resolution Services

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

DECISION

Dispute Codes:

OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing was convened in response to an application by the landlord for an Order of Possession due to an undisputed Notice to End for unpaid rent, and a Monetary Order to recover all rental arrears. The application was also inclusive of money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the filing fee associated with this application, and an order to retain the security deposit in partial satisfaction of the monetary claim.

Both the landlord and the tenant appeared in the conference call and each participated in the hearing.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The undisputed testimony by the parties is as follows. The tenant still resides in the rental unit. The tenancy began, “ten years ago” (set at June 01, 1999 for calculations only). Rent in the amount of \$750 is payable for the month on the last day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$325. The tenant failed to pay all of rent for January 2008 with rent owing for that month of \$346. The tenant then failed to pay rent from February 2008 to May 2009 and on May 09, 2009 the landlord served the tenant with a notice to

end tenancy for non-payment of rent with an adjusted effective date of May 19, 2009. The tenant paid the landlord \$700 in the month of June 2009. Rent for July is due at month's end. The quantum of the landlord's monetary claim for all rental arrears is **\$11,646**. The landlord requests loss of revenue for July, 2009.

The tenant's testimony is that she is not in a position to vacate at this time. The tenant claims she is pregnant and at near term and manages a medical condition.

The landlord seeks an Order of Possession for as soon as possible.

Analysis

Based on the testimony of the landlord and the tenant I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid the outstanding rent and has not applied for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

Based on the above facts I find that the landlord is entitled to an Order of Possession.

As for the monetary order: I decline to award the landlord loss of revenue for July 2009 as it is not yet due to the landlord, but the landlord is at liberty to reapply for any loss of revenue at a later time after July 31, 2009. I find that the landlord has established a claim for **\$11,646** in unpaid rent. The landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$11,696**.

Conclusion

I grant an Order of Possession to the landlord, effective two (2) days from the day it is served on the tenant. The landlord has been advised that they have discretion in the exercise of the Order, and that they are not legally obligated to serve the tenant with the Order. The tenant must be served with this Order of Possession. Should the tenant be served with the Order and fails 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.

I order that the landlord retain the deposit and accrued interest of \$358.23 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the

balance due of **\$11337.77**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated July 02, 2009