



Dispute Resolution Services

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

DECISION

Dispute Codes: OPR, MNR, MNSD and FF

Introduction

This application was brought by the landlord seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by posting on the tenant's door on August 3, 2009. The landlord also sought a Monetary Order for the unpaid rent, utilities and recovery of the filing fee for this proceeding, and authorization to retain the security deposit in set off against the balance owed.

Despite having been served with the Notice of Hearing served by posting on the tenant's door on August 25, 2009, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

As a matter of note, the landlord gave evidence that the tenant was offered personal service of both the Notice to End and the Notice of Hearing, but that she refused to answer or closed the door

Issues to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order for the unpaid rent and utilities and filing fee and authorization to retain the security deposit in set off against the balance owed.

Background and Evidence

During the hearing, the landlord gave evidence that this tenancy began on January 1, 2009. Rent is \$550 and the landlord holds a security deposit of \$275 paid on or about December 31, 2008.

The landlord gave evidence that the Notice to End Tenancy was served on August 25, 2009 when the tenant had an accumulated arrears of \$150 from the previous three months, unpaid utilities of \$40, and she had not paid rent for August. In the interim, the tenant has not paid rent for September or October.

Analysis

Section 46 of the *Act*, which deals with notice to end tenancy for unpaid rent, provides that a tenant may pay the overdue rent or make application for dispute resolution within five days of receiving the notice.

In this instance, I find that the tenant has not made application to dispute the Notice to End, the rent arrears was not paid within five days of receipt of the notice and no further payments have been made to date.

Therefore, the landlord requested, and I find he is entitled to, an Order of Possession effective two days from service of it upon the tenant.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent, utilities and filing fee for this proceeding and authorization to retain the security deposit in set off as follows:

Accumulated arrears to July 31, 2009	\$150.00
Unpaid utilities	40.00
August rent	550.00
September rent	550.00
October rent	550.00
Filing fee	50.00
Sub total	\$1,890.00
Less retained security deposit	- 275.00
Less interest (December 31, 2008 to date)	- 0.00
TOTAL	\$1,615.00

Conclusion

Thus, the landlord's copy of this decision is accompanied by an Order of Possession effective two days from service of it on the tenant and a Monetary Order for \$1,615.00 for service on the tenant.

The Order of Possession is enforceable through the Supreme Court of British Columbia and the Monetary Order is enforceable through the Provincial Court of British Columbia.

October 14, 2009
