



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 4, 2009. The landlord also sought a Monetary Order for the unpaid rent and recovery of the filing fee for this proceeding.

In addition, I have exercised my discretion under section 64(3)(c) of the *Act* to permit the landlord to amend the application to request authorization to retain the security deposit in set off against any balance owed.

Despite having been served with the Notice of Hearing by registered mail sent on August 17, 2009 and subsequently posted on the tenant's door, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

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 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 April 1, 2009. Rent is \$625 and the landlord holds a security deposit of \$312.50 paid on April 1, 2009.

The landlord gave evidence that the Notice to End Tenancy was served on August 4, 2009 when the tenant had failed to pay rent for July and August. In the interim, the tenant has not paid rent for September or October 2009.

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 the September rent remains unpaid.

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 are is entitled to a Monetary Order for the unpaid rent and filing fee for this proceeding and authorization to retain the security deposit in set off as follows:

July rent	\$625.00
August rent	625.00
September rent	625.00
Filing fee	50.00
Sub total	\$1,925.00
Less retained security deposit	- 312.50
Less interest (April 1, 2009 to date)	- 0.00
TOTAL	\$1,612.50

While the landlord requested that the order include loss of rent for October, as the hearing took place on the rent due date, and as I cannot foresee when the tenant will leave and the landlord will find a new tenant, I find that the matter of loss of rent should be deferred. The landlord remains at liberty to make application for this and any other such damages as may be ascertained at the conclusion of the tenancy.

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 \$1,612.50 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.