

DECISION

Dispute Codes: OPR, MNR, MNSD and FF

Introduction

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

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

This tenancy began on January 20, 2009. Rent is \$800 per month and the landlords hold a security deposit of \$400 paid on or about January 20, 2009.

During the hearing, the landlords gave evidence that the Notice to End Tenancy was served when the tenant had failed to pay the rent for September 2009. The parties gave further evidence that the tenant had paid \$500 of the rent on September 25, 2009 leaving \$300 in arrears. At the time of the hearing, the October rent remained unpaid.

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 arrears and October rent remain unpaid.

Therefore, the landlords requested, and I find they are entitled to, an Order of Possession effective two days from service of it upon the tenant. The landlords stated that they would defer enforcement of the Order of Possession to an effective date of October 31, 2009 if the tenant kept to his promise to pay the October rent by Friday, October 16, 2009.

I further find that the landlords are 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:

September rent shortfall	\$ 300.00
October rent	800.00
Filing fee	<u>50.00</u>
Sub total	\$1,150.00
Less retained security deposit	- 400.00
No interest due	0.00
TOTAL	\$ 750.00

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 \$750.00 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.