



Dispute Resolution Services

Residential Tenancy Branch

Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes:

OPR, MNR, MNSD, MNDC,FF

Introduction

This hearing was convened in response to an application by the landlord for an Order of Possession due to unpaid rent, a Monetary Order to recover rental arrears, late fees, and inclusive of recovery of the filing fee associated with this application, and an order to retain the security deposit in partial satisfaction of the monetary claim.

I accept the landlord's evidence that the tenant was served with the application for dispute resolution and notice of hearing by personal service in accordance with Section 89 of the Residential Tenancy Act (the Act). The tenant still resides in the rental unit.

Both parties attended the hearing and were given opportunity to make submissions and provide testimony.

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 tenancy began on September 01, 2009. Rent in the amount of \$995 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$497.50. The tenant failed to pay rent in the month of October 2009 and on October 02, 2009 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant paid most

of the rent for October, except for \$50. The tenant further failed to pay rent in the month of November 2009, and has not paid rent for December 2009. The tenant testified that they wish to remain in the rental unit, and are working to secure financial resources to pay up the outstanding rent as soon as possible – as soon as the coming week. The landlord's position is open to re-instating the tenancy if the tenant pays the outstanding rent within the next week, but in the absence of any assurance the landlord seeks an Order of Possession for as soon as possible and a monetary order in the following amounts:

Balance of October 2009	\$50
Late fee	\$20
Rent for November 2009	\$995
Late fee	\$20
Rent for December 2009	\$995
Late fee	\$20

The quantum of the landlord's monetary claim is for **\$2100**.

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 did not apply 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. Ending a tenancy is a serious matter. The landlord has discretion whether to rely on this Order or, alternatively, resolve this matter to the satisfaction of both parties. However, if the landlord determines to end the tenancy this Order must be served on the tenant.

I further find that the landlord has established a claim for **\$2100** in unpaid rent and late fees. The landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$2150**.

Conclusion

I grant an Order of Possession to the landlord, **effective 2 days** from the day of service. If the tenant is served with this 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 interest of \$497.50 in partial satisfaction of the claim and I grant the landlord an order under Section 67 of the Act for the balance due of **\$1602.50**. This order may be filed in the Small Claims Court and enforced as an order of that Court.