

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 September 5, 2009. The landlord also sought a Monetary Order for unpaid rent and parking fees 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 sent by registered mail on October 26, 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.

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 unpaid rent and parking fees, recovery of the filing fee and authorization to retain the security deposit in set off.

Background and Evidence

This tenancy began on June 18, 2009. Rent is \$885 per month plus \$15 parking and the landlord holds a security deposit of \$442.50 paid on June 17, 2009.

During the hearing, the landlord submitted two Notices to End Tenancy, served on October 5, 2009 and November 6, 2009. He also submitted a letter from the tenant dated November 16, 2009 acknowledging a rent arrears of \$570 and agreeing to pay of the arrears in instalments of \$300 on November 20, 2009 and the balance on December 18, 2009.

The landlord stated that, at the time of the hearing, the tenant still owed \$400 from November and she had not paid the rent for December.

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. Otherwise, the tenant is conclusively presumed to have accepted that the tenancy ends on the date set out in the notice. That end date was October 15, 2009 on the October notice.

In this instance, I find that the tenant has not made application to dispute the Notice to End and the rent arrears was not paid within five days of receipt of the notice.

Therefore, the landlord requested, and I find he is entitled to, an Order of Possession effective at 1 p.m. on December 11, 2009.

I further find that the landlord is entitled to a Monetary Order for the unpaid rent and parking, loss of rent for December, the filing fee for this proceeding and authorization to

retain the security deposit in set off as follows:

November rent and parking shortfall	\$ 400.00
December rent	900.00
Filing fee	<u>50.00</u>
Sub total	\$1,350.00
Less retained security deposit (no interest due)	- 442.50
TOTAL	\$ 907.50

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, effective at 1 p.m. on December 11, 2009.

In addition to authorization to retain the security deposit in set off, the landlord is also issued with a Monetary for \$907.50, enforceable through the Provincial Court of British Columbia, for service on the tenant.