

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 in person on October 15, 2009. The landlord 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.

Despite having been served with the Notice of Hearing sent by registered mail on October 27, 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 recovery of the filing fee, and authorization to retain the security deposit in set off.

Background and Evidence

This tenancy began on May 1, 2008. Rent is \$850 per month and the landlord holds a security deposit of \$425 paid on May 1, 2008.

During the hearing, gave evidence that she had served the Notice to End Tenancy when the tenant had failed to pay the rent for October 2009. In the interim, the tenant has not paid rent for November or 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.

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 that she is entitled to, an Order of Possession effective two days from service of it on the tenant.

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

| | |
|---------------|-----------|
| October rent | \$ 850.00 |
| November rent | 850.00 |

| | |
|-------------------------------------|-------------------|
| December rent | 850.00 |
| Filing fee | 50.00 |
| Sub total | \$2,600.00 |
| Less retained security deposit | - 425.00 |
| Less interest (May 1, 2008 to date) | - 4.27 |
| TOTAL | \$2,170.73 |

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect two days from service of it on the tenant.

In addition to authorization to retain the security deposit in set off, the landlord is also issued with a Monetary for \$2,170.73, enforceable through the Provincial Court of British Columbia, for service on the tenant.