

DECISION

Dispute Codes: OPR, MNR, MNDC 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 November 2, 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 served in person on November 16, 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 the unpaid rent and recovery of the filing fee for this proceeding, and authorization to retain the security deposit in set off..

Background and Evidence

This tenancy began on or about July 1, 2009. Rent is \$700 per month and the landlord holds a security deposit of \$350 paid on or about July 1, 2009.

During the hearing, the landlord's agent gave evidence that the Notice to End Tenancy had been served after the tenant had been short \$400 on her November 2009 rent.

In the interim, the tenant failed to honour the Notice to End Tenancy and, at the time of the hearing, has not paid rent for December 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. Otherwise, the tenant is conclusively presumed to have accepted that the tenancy ends on the date set out in the notice which was November 12, 2009.

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 rent was not paid for December. Therefore, the landlords requested, and I find they are entitled to, an Order of Possession effective two days from service of it on the tenant.

I further find that the landlords are entitled to a Monetary Order for the unpaid rent, recovery of the filing fee for this proceeding and authorization to retain the security deposit in set off against the balance owed, calculated as follows:

Rent shortfall for November	\$ 400.00
Rent for December	700.00

Filing fee	50.00
Sub total	\$1,150.00
Less retained security deposit	\$350.00
Less interest (July 1, 2009 to date)	- 0.00
TOTAL	\$800.00

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 \$800.00 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